

**THE
BERRY HILL
MUNICIPAL
CODE**

Prepared by the

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

in cooperation with the

TENNESSEE MUNICIPAL LEAGUE

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Change 2, September 13, 2010

CITY OF BERRY HILL, TENNESSEE

MAYOR

Harold Spray

VICE MAYOR

Polly Haskins

COMMISSIONER

Elizabeth Sartain

MANAGER

Joe C. Baker

RECORDER

Michelle Honick

Preface

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

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

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

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

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

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

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

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

The able assistance of Linda Dean, the MTAS Sr. Word Processing Specialist who did all the typing on this project, and Dianna Habib, Administrative Services Assistant, is gratefully acknowledged.

Steve Lobertini
Codification Consultant

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

1. General power to enact ordinances: (6-19-101)
2. All ordinances shall begin, "Be it ordained by the City of Berry Hill as follows:" (6-20-214)
3. Ordinance procedure
 - (a) Every ordinance shall be read two (2) different days in open session before its adoption, and not less than one (1) week shall elapse between first and second readings, and any ordinance not so read shall be null and void. Any city incorporated under chapters 18-23 of this title may establish by ordinance a procedure to read only the caption of an ordinance, instead of the entire ordinance, on both readings. Copies of such ordinances shall be available during regular business hours at the office of the city recorder and during sessions in which the ordinance has its second reading.
 - (b) An ordinance shall not take effect until fifteen (15) days after the first passage thereof, except in case of an emergency ordinance. An emergency ordinance may become effective upon the day of its final passage, provided it shall contain the statement that an emergency exists and shall specify with distinctness the facts and reasons constituting such an emergency.
 - (c) The unanimous vote of all members of the board present shall be required to pass an emergency ordinance.
 - (d) No ordinance making a grant, renewal, or extension of a franchise or other special privilege, or regulating the rate to be charged for its service by any public utility shall ever be passed as an emergency ordinance. No ordinance shall be amended except by a new ordinance. (6-20-215)
4. Each ordinance of a penal nature, or the caption of each ordinance of a penal nature, shall be published after its final passage in a newspaper of general circulation in the city.

No such ordinance shall take effect until the ordinance, or its caption, is published except as otherwise provided in chapter 54 part 5 of this title. (6-20-218)

TITLE 1

GENERAL ADMINISTRATION¹

CHAPTER

1. MISCELLANEOUS.
2. BOARD OF COMMISSIONERS.
3. DIRECTOR OF CIVIL DEFENSE.
4. CODE OF ETHICS.

CHAPTER 1

MISCELLANEOUS

SECTION

- 1-101. City elections.
- 1-102. Surety bond for commissioners, city manager, city recorder, city clerk and traffic clerk.

1-101. City elections.² An election shall be held on the 8th day of March 1988 for Commissioner of the City of Berry Hill. An election shall be held on the third Tuesday in March of each even year for the election of such commissioners whose terms may be expiring unless the board of commissioners by resolution sets a specific different date for such election. (Ord. #87-238, Dec. 1987)

1-102. Surety bond for commissioners, city manager, city recorder, city clerk and traffic clerk. (1) Pursuant to the provisions of Tennessee Code Annotated, § 6-21-104 each commissioner, and the city manager shall execute a fidelity bond with some surety company authorized to do business in the State of Tennessee as surety in the amount of five hundred thousand dollars (\$500,000.00).

(2) The city clerk and city recorder shall execute a fidelity bond with some surety company authorized to do business in the State of Tennessee as

¹Charter reference

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

Municipal code references

Building inspectors: title 12.

Zoning: title 14.

²Charter reference

Election provisions: title 6, chapter 20.

surety in the amount of two hundred thousand dollars (\$200,000.00). The traffic clerk shall execute a fidelity bond with some surety company authorized to do business in the State of Tennessee as surety in the amount of one hundred thousand dollars (\$100,000.00).

(3) The ordinary costs of the above bonds, excepting any exceptional risks expenses, shall be paid by the City of Berry Hill.

(4) Fidelity bonds required by the city shall be signed by the individual holding the respective office or position and any expenditure or transfer in excess of two hundred thousand dollars (\$200,000.00) shall not be valid unless accompanied by a resolution or ordinance of the board of commissioners specifically approving the expenditure or transfer. (Ord. #98-294, March 1998, as amended by Ord. #2001-318, March 2001)

CHAPTER 2

BOARD OF COMMISSIONERS¹

SECTION

1-201. Time and place of regular meetings.

1-202. Adoption of ordinances.

1-201. Time and place of regular meetings. The regular meetings of the board of commissioners shall be held on the second Monday of each calendar month of the year, at 7:00 P.M. at the city offices. (1986 Code, § 1-201)

1-202. Adoption of ordinances.² Ordinances being considered by the board of commissioners may be read in caption form only on both first and second reading instead of reading the entire ordinance. When ordinances are read in caption form only, copies of the proposed ordinance shall be available at city hall for inspection by persons requesting to see the ordinance during regular business hours and during the time the board of commissioners is in session considering the ordinance on second reading. (1986 Code, § 1-202, as amended by Ord. #97-289, Aug. 1997)

¹Charter reference

For detailed provisions of the charter related to the election, and to general and specific powers and duties of, the board of commissioners, see Tennessee Code Annotated, title 6, chapter 20. (There is an index at the beginning of chapter 20 which provides a detailed breakdown of the provisions in the charter.) In addition, see the following provisions in the charter that outline some of the powers and duties of the board of commissioners:

Appointment and removal of city judge: § 6-21-501.

Appointment and removal of city manager: § 6-21-101.

Compensation of city attorney: § 6-21-202.

Creation and combination of departments: § 6-21-302.

Subordinate officers and employees: § 6-21-102.

Taxation

Power to levy taxes: § 6-22-108.

Change tax due dates: § 6-22-113.

Power to sue to collect taxes: § 6-22-115.

Removal of mayor and commissioners: § 6-20-220.

²State law reference

Tennessee Code Annotated, § 6-20-215.

CHAPTER 3

DIRECTOR OF CIVIL DEFENSE¹

SECTION

1-301. Office created.

1-302. Appointment and tenure.

1-303. Powers.

1-301. Office created. The office of director of civil defense is hereby created. (1986 Code, § 1-901)

1-302. Appointment and tenure. The director of civil defense shall be appointed by the mayor for an indefinite term and he shall continue in said office until such time as he may become incapacitated, and/or his tenure is terminated by the appointing authority. (1986 Code, § 1-902)

1-303. Powers. Said officer shall have the following powers, and such other powers as may be from time to time delegated to him by ordinance:

(1) He shall be the director of all units and elements of civil defense within the city.

(2) He shall establish and supervise training schedules and procedures for each unit or element, and shall call out and direct the operation thereof in the event of a disaster or other emergency, such state of disaster or emergency having been declared by the mayor, or, in his absence, any member of the board of commissioners.

(3) He shall within his discretion permit any element or unit to operate beyond the municipal limits of this city when said operations are requested by the director of civil defense for the metropolitan government.

(4) He shall submit requisitions in writing for the purchase of any item of equipment necessary for the operation or training of any unit, and the total of said expenditures required by said requisitions shall not exceed the amount allocated for civil defense for the year in which said requisitions are submitted.

The director nor any officer or agent of any civil defense unit is authorized in any manner to obligate the city for any expenditure or expenditures or obligations whatsoever; nor to accept any item of automotive or mechanized equipment for storage and/or use within the city without the express consent of the board of commissioners in open meeting.

¹State law reference

Tennessee Code Annotated, title 58, chapter 2.

(5) The director shall not permit any unit or agency of civil defense to engage in any political activity whatsoever. (1986 Code, § 1-903)

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.

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 City of Berry Hill. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the City of Berry Hill. The words "municipal," "municipality," "city" and "City of Berry Hill" include these separate entities. (as added by Ord. #2007-361, May 2007)

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), stepparent(s), grandparent(s), sibling(s), child(ren), or stepchild(ren).

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

(3) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter. (as added by Ord. #2007-361, May 2007)

1-403. Disclosure of personal interest by official with vote. An official with the responsibility to vote on a measure shall disclose, during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects, or that would lead a reasonable person to infer that it affects, the official's vote on the measure. In addition, the official may recuse himself/herself from voting on the measure. (as added by Ord. #2007-361, May 2007)

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/herself from the exercise of discretion in the matter. (as added by Ord. #2007-361, May 2007)

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

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

(2) That might reasonably be interpreted as an attempt to influence his/her action, or reward him/her for past action, in executing municipal business. (as added by Ord. #2007-361, May 2007)

1-406. Use of information. (1) An official or employee may not disclose any information obtained in his/her 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/her official capacity or position of employment with the intent to result in financial gain for himself/herself or any other person or entity. (as added by Ord. #2007-361, May 2007)

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/herself.

(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 board of commissioners to be in the best interests of the City of Berry Hill. (as added by Ord. #2007-361, May 2007)

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

(2) An official or employee may not use or attempt to use his/her position to secure any privilege or exemption for himself/herself or others that is not authorized by the city's charter or any ordinance or policy. (as added by Ord. #2007-361, May 2007)

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 city's charter or any ordinance or policy. (as added by Ord. #2007-361, May 2007)

1-410. Ethics complaint. (1) The city attorney is designated as the ethics officer of the city. Upon the written request of an official or employee potentially affected by a provision of this chapter, the city attorney may render

an oral or written advisory ethics opinion based upon this chapter and other applicable law.

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

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

(c) When a complaint of a violation of any provision of this chapter is lodged against a member of the City of Berry Hill Board of Commissioners, the board 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 board determines that a complaint warrants further investigation, it shall authorize an investigation by the city attorney or another individual or entity chosen by the board of commissioners.

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

(4) When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this code of ethics. (as added by Ord. #2007-361, May 2007)

1-411. Violations. An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the city's charter or other applicable law, and in addition is subject to censure by the board of commissioners. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (as added by Ord. #2007-361, May 2007)

TITLE 2

BOARDS AND COMMISSIONS, ETC.

[RESERVED FOR FUTURE USE]

TITLE 3

MUNICIPAL COURT

CHAPTER

1. CITY COURT.

CHAPTER 1

CITY COURT¹

SECTION

- 3-101. Rules and procedure.
- 3-102. Police to assist.
- 3-103. Absence of city judge.
- 3-104. Court costs.
- 3-105. Traffic safety school.
- 3-106. Issuance of subpoenas.

3-101. Rules and procedure. The court shall make rules for the conduct of its business, and shall prescribe and adopt forms for its use in issuing process, entering judgments, and keeping records of its transactions. It shall, with the concurrence of the board of commissioners by resolution, adopt a schedule of days and hours at which court will be held. The court shall be

¹Charter references

For provisions of the charter governing the city judge and city court operations, see Tennessee Code Annotated, title 6, chapter 21, part 5. For specific charter provisions in part 5 related to the following subjects, see the sections indicated:

City judge:

Appointment and term: § 6-21-501.

Jurisdiction: § 6-21-501.

Qualifications: § 6-21-501.

City court operations:

Appeals from judgment: § 6-21-508.

Appearance bonds: § 6-21-505.

Arrest warrants: § 6-21-504.

Docket maintenance: § 6-21-503.

Fines and costs:

Amounts: §§ 6-21-502, 6-21-507.

Collection: § 6-21-507.

Disposition: § 6-21-506.

authorized to compel the attendance of witnesses by the issuance of subpoenas or by attachments. (1986 Code, § 1-501)

3-102. Police to assist. The chief of police shall be responsible for the attendance of a police officer at all scheduled sessions of the court to assist the court with implementing its orders and judgments. (1986 Code, § 1-502)

3-103. Absence of the city judge. In the event of the temporary absence, incompetency, or inability of the city judge to serve in any case, the city manager shall designate an attorney over the age of 30 years, admitted to practice in the State of Tennessee, to act as special judge of the court with all powers incidental to the office of city judge. (1986 Code, § 1-503)

3-104. Court costs. (1) There is hereby established a fee or charge of twenty-five dollars (\$25.00) on each and every case, matter, citation, or hearing which shall come before the Berry Hill City Court. This charge shall be in addition to any fine or taxes imposed by law.

(2) This fee or charge shall be charged one time in each matter regardless of the number of hearings and shall be taxed to the party who is determined by the court to be guilty or liable or who shall prior to the hearing enter a plea of guilty or assume the liability. The fee or charge shall not be taxed to any party who is determined by the court not to be guilty or liable, but may be taxed to any party who has his matter retired if the court so orders.

(3) Any and all lawful process or execution permitted by law may be used to collect the fees or charges authorized herein. (Ord. #86-232, Aug. 1986, as amended by Ord. #98-292, Feb. 1998)

3-105. Traffic safety school.¹ There is hereby established a traffic safety school for the City of Berry Hill which is to be established pursuant to guidelines set forth by the city judge, reviewed by the city attorney, and approved by the city manager. A fee not to exceed \$30.00 may be charged for attendance to the traffic safety school and a certificate of completion shall be given each person who completes the course. The course of instruction shall be given by a qualified instructor and shall require some form of testing at the end of the course. (Ord. #98-292, Feb. 1998)

3-106. Issuance of subpoenas. (1) Subpoenas and subpoenas duces tecum for the attendance of witnesses and or the production of evidence or materials may be issued by the court clerk or judge or at the direction of the judge.

¹Municipal code reference

Motor vehicles, traffic and parking: title 15.

(2) Subpoenas and subpoenas duces tecum shall be issued in a form that substantially complies with Rule 45 of the Tennessee Rules of Civil Procedure and state law for the issuance of subpoenas.

(3) The municipal judge may adopt court rules for the form, issuance, return and validity of subpoenas not inconsistent with state law. Such rules may adopt by reference state law provisions pertaining to subpoenas. The municipal judge may also hear and rule on actions to quash subpoenas.

(4) Any person or persons failing to comply with a lawfully issued subpoena may be fined up to fifty dollars (\$50.00) and/or be subject to such procedural action as the municipal court may direct.

(5) This section is not intended to limit, restrict or replace any authority of the municipal court granted or authorized by state law or state judicial ruling. (as added by Ord. #2008-370, Oct. 2008)

TITLE 4

MUNICIPAL PERSONNEL¹

CHAPTER

1. MISCELLANEOUS.
2. SOCIAL SECURITY.
3. SICK LEAVE.
4. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.
5. TRAVEL REIMBURSEMENT REGULATIONS.

CHAPTER 1

MISCELLANEOUS

SECTION

- 4-101. Deferred profit sharing plan and trust.
- 4-102. Indemnification of city employees.
- 4-103. Mandating retirement of city police officers and police chief.

4-101. Deferred profit sharing plan and trust. A new plan known as the "deferred profit sharing plan and trust" is adopted effective July 1, 1985.

Any existing retirement policies which may be in conflict with this plan are repealed.

The board of commissioners in office from time to time and the city clerk are hereby appointed trustees for administering the plan.

A fiduciary fund (trustee account) shall be established and all transactions shall be posted through such account.

The city manager is hereby directed to budget monies for the plan. (1986 Code, § 1-103)

4-102. Indemnification of city employees. The City of Berry Hill is authorized to indemnify an employee or official of the city from a judgment against him to an amount as provided herein if:

- (1) The judgment results from an act or omission arising out of the performance of his official duties and while engaged in the course of his employment or duties with the City of Berry Hill and does not result from willful, wanton, or malicious wrong doings, violations of rules and regulations

¹The Personnel Rules and Regulations Employee Handbook, of the City of Berry Hill, Tennessee, is available in the office of the city recorder.

of the city or state as applied to the city, violations of criminal statutes, or violations of orders or directives of his superiors; and

(2) The City of Berry Hill has been timely notified of a pending action and the City of Berry Hill has furnished legal counsel for his defense or had the opportunity to participate in the defense.

Provided, however, indemnification shall not be provided in cases where the City of Berry Hill has not been allowed to participate through legal counsel in the proceedings nor will indemnification be permitted in cases where agreed judgments are entered or taken without the approval of the city.

Indemnification in all cases shall be limited to \$75,000.00 per case regardless of the number of parties.

The city manager may authorize indemnification after consultation with the city attorney and in cases where it is denied the board of commissioners shall hear and decide the question on application of any party in interest who applies to be heard within 20 days after notice of the decision of the city manager. (Ord. #87-239, March 1988)

4-103. Mandatory retirement of city police officers and police chief. (1) Any police officer or Chief of Police of the City of Berry Hill, Tennessee shall be retired upon the last day of the fiscal year during which such person has attained sixty (60) years of age.

(2) Any police officer may continue in service to sixty-five (65) years of age upon application to and approval by the city manager. In the case of the chief of police, approval is required from the city manager and the Berry Hill Board of Commissioners.

(3) Retirement benefits accumulated by the police officer shall not be increased, altered or vested by virtue of an officer reaching the age of mandatory retirement; and, benefits available to a person upon retirement, if any, shall be those that the officer would otherwise be entitled to or which the officer had earned and had accredited upon reaching the age of mandatory retirement and shall not be affected by this section. (Ord. #96-284, March 1997)

CHAPTER 2

SOCIAL SECURITY

SECTION

- 4-201. Policy and purpose as to coverage.
- 4-202. Necessary agreements to be executed.
- 4-203. Withholdings from salaries or wages.
- 4-204. Appropriations for employer's contributions.
- 4-205. Records and reports.
- 4-206. Exclusions.
- 4-207. When effective.

4-201. Policy and purpose as to coverage. It is hereby declared to be the policy and purpose of the city to extend as of the earliest date hereinafter set forth, to the employees and officials thereof, who are members of the city's pension plan, not excluded by law or this chapter, and whether employed in connection with a governmental or proprietary function, the benefits of the System of Federal Old-Age and Survivors Insurance as authorized by the Federal Social Security Act and amendments thereto, including Public Law 734, 81st Congress. In pursuance of said policy, and for that purpose, the city shall take such action as may be required by applicable state and federal laws or regulations. (1986 Code, § 1-701)

4-202. Necessary agreements to be executed. The mayor is hereby authorized and directed to execute all the necessary agreements and amendments thereto with the Director of Old Age and Survivors Insurance Agency, State of Tennessee, as agent or agency, to secure coverage of employees and officials as provided in § 4-201. (1986 Code, § 1-702)

4-203. Withholdings from salaries or wages. Withholdings from the salaries or wages of employees and officials for the purpose provided in § 4-201 of this chapter are hereby authorized to be made in the amounts and at such times as may be required by applicable federal or state laws or regulations, and shall be paid over to the state or federal agency designated by said laws or regulations. (1986 Code, § 1-703)

4-204. Appropriations for employer's contributions. There shall be appropriated from available funds such amounts at such times as may be required by applicable state or federal laws or regulations for employer's contributions, which shall be paid over to the state or federal agency designated by said laws or regulations. (1986 Code, § 1-704)

4-205. Records and reports. The city shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (1986 Code, § 1-705)

4-206. Exclusions. There is hereby excluded from this chapter any authority to make any agreement with respect to any position or any employee or official now covered or authorized to be covered by any other ordinance or resolution, creating any other retirement system for any employee or official of the city, or any employee, official or position not authorized to be covered under applicable state or federal laws or regulations. (1986 Code, § 1-706)

4-207. When effective. This chapter shall take effect from and after November 25, 1974. (1986 Code, § 1-707)

CHAPTER 3**SICK LEAVE****SECTION**

4-301. Accumulated sick leave.

4-301. Accumulated sick leave. Employees may accumulate sick days without limitation, and any sick days forfeited in the calendar year of 1994 will be credited to an employees leave record. Employees not using a sick day in a calendar year will receive two extra vacation days in the next calendar year. Sick leave days remaining unused at retirement for any employee sixty-two years of age or older and fully vested in the city retirement plan, will be redeemed at twenty-five percent of the value on the date of retirement. (Ord. #95-269, June 1995)

CHAPTER 4

OCCUPATIONAL SAFETY AND HEALTH PROGRAM¹

SECTION

- 4-401. Title.
- 4-402. Purpose.
- 4-403. Coverage.
- 4-404. Standards authorized.
- 4-405. Variances from standards authorized.
- 4-406. Administration.
- 4-407. Funding the program.

4-401. Title. This chapter shall provide authority for establishing and administering the Occupational Safety and Health Program for the employees of the City of Berry Hill. (Ord. #2002-332, § Oct. 2002)

4-402. Purpose. The City of Berry Hill, in electing to establish and maintain an effective occupational safety and health program for its employees, shall:

- (1) Provide a safe and healthful place and condition of employment.
- (2) Make, keep, preserve, and make available to the Commissioner of Labor of the State of Tennessee, his designated representatives, or persons within the Tennessee Department of Labor to whom such responsibilities have been delegated, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.
- (3) Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards, and provide for education and notification of all employees of the existence of this program. (Ord. #2002-332, § Oct. 2002)

4-403. Coverage. The provisions of the Occupational Safety and Health Program for the employees of the City of Berry Hill shall apply to all employees of each administrative department, commission, board, division, or other agency

¹Tennessee Code Annotated, title 50, chapter 3.

The Occupational Safety and Health Program for the City of Berry Hill, including Appendices I through IV is included in this municipal code as Appendix 2.

of the City of Berry Hill whether part-time or full-time, seasonal or permanent. (Ord. #2002-332, § Oct. 2002)

4-404. Standards authorized. The occupational safety and health standards adopted by the City of Berry Hill are the same as, but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in accordance with section 6 of the Tennessee Occupational Safety and Health Act of 1972.¹ (Ord. #2002-332, § Oct. 2002)

4-405. Variances from standards authorized. The City of Berry Hill may, upon written application to the Commissioner of Labor of the State of Tennessee, request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with Rules of Tennessee Department of Labor, Occupational Safety, Chapter 0800-1-2, as authorized by Tennessee Code Annotated, title 50. Prior to requesting such temporary variance, the City of Berry Hill shall notify or serve notice to employees, their designated representatives, or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board as designated by the Berry Hill City Manager shall be deemed sufficient notice to employees. (Ord. #2002-332, § Oct. 2002)

4-406. Administration. For the purposes of this chapter, the Berry Hill City Manager is designated as the director of occupational safety and health to perform duties and to exercise powers assigned so as to plan, develop, and administer the occupational safety and health program for the employees of the City of Berry Hill. The director shall develop a plan of operation for the program and said plan shall become a part of this chapter when it satisfies all applicable sections of the Tennessee Occupational Safety and Health Act of 1972 and part IV of the Tennessee Occupational Safety and Health Plan. (Ord. #2002-332, § Oct. 2002)

4-407. Funding the program. Sufficient funds for administering and staffing the program pursuant to this chapter shall be made available as authorized by the Occupational Safety and Health Program for the employees of the City of Berry Hill. (Ord. #2002-332, § Oct. 2002)

¹State law reference

Tennessee Code Annotated, title 50, chapter 3.

CHAPTER 5

TRAVEL REIMBURSEMENT REGULATIONS

SECTION

4-501. Purpose.

4-502. Enforcement.

4-503. Travel policy.

4-504. Travel reimbursement rate schedule.

4-505. Administrative procedures.

4-501. Purpose. The purpose of this chapter and referenced regulations is to bring the city into compliance with Public Acts 1993, Chapter 433. This act 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 chapter 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 city business at city expense. (Ord. #95-266, April 1995)

4-502. Enforcement. The city manager of the city or his or her designee shall be responsible for the enforcement of these travel regulations. (Ord. #95-266, April 1995)

4-503. 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 city 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 city. 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

city manager. 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 city for registration fees, air fares, meals, lodging, conferences, and similar expenses.

Travel advance requests aren't considered documentation of travel expenses. If travel advances exceed documented expenses, the traveler must immediately reimburse the city. It will be the responsibility of the city manager to initiate action to recover any undocumented travel advances.

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

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

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

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

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

The city manager may make exceptions for unusual circumstances.

Expenses considered excessive won't be allowed.

(7) Claims of \$5 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 city or misuse city travel funds is subject to legal action for recovery of fraudulent travel claims and/or advances.

(9) Mileage and motel expenses incurred within the city aren't ordinarily considered eligible expenses for reimbursement. (Ord. #95-266, April 1995)

4-504. Travel reimbursement rate schedules. Authorized travelers shall be reimbursed according to the federal travel regulation rates. The city's travel reimbursement rates will automatically change when the federal 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. (Ord. #95-266, April 1995)

4-505. Administrative procedures. The city 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, in June 1993. A copy of the administrative procedures is on file in the office of the city recorder.

This chapter shall take effect upon its final reading by the municipal governing body. It shall cover all travel and expenses occurring on or the date of passage. (Ord. #95-266, April 1995)

TITLE 5

MUNICIPAL FINANCE AND TAXATION¹

CHAPTER

1. MISCELLANEOUS.
2. PROPERTY TAXES.
3. PRIVILEGE TAXES.

CHAPTER 1

MISCELLANEOUS

SECTION

- 5-101. Fiscal year.
- 5-102. Depositories.
- 5-103. Waiver of certain taxes.
- 5-104. Purchasing.

5-101. Fiscal year.² The fiscal year of the city shall begin on July 1 and end on June 30. (1986 Code, § 6-101)

5-102. Depositories.³ (1) Pursuant to the provisions of Tennessee Code Annotated, §§ 6-22-120 and 6-56-106, and Tennessee Code Annotated, title 9, chapter 4, parts 1 and 4, and only as allowable thereunder, the following banks, investment pools and institutions shall be designated as official depositories for funds of the City of Berry Hill:

- (a) Bank of America, N. A.;
- (b) Local Government Investment Pool (LGIP);
- (c) SunTrust Bank.

(2) The City Manager, Mayor, Vice-Mayor and Commissioners of the City of Berry Hill are authorized to sign checks and make withdrawals of city funds, provided however, that all checks and withdrawals shall require the

¹Charter reference

Finance and taxation: title 6, chapter 22.

²Charter reference

Tennessee Code Annotated, § 6-22-121 provides that the fiscal year of the city shall begin on July 1 unless otherwise provided by ordinance.

³Charter reference

Tennessee Code Annotated, § 6-22-120 prescribes depositories for city funds.

signature of any two of the persons authorized to sign checks. The city manager is authorized to establish accounts for the city consistent with this section. (1986 Code, § 6-102, as replaced by Ord. #2004-345, July 2004, and amended by Ord. #2007-366, Oct. 2007)

5-103. Waiver of certain taxes. The tax collector of the city is authorized to waive the collection of any tax due to the city when the full amount of the tax liability due is an amount less than one dollar (\$1.00). (1986 Code, § 6-103)

5-104. Purchasing. Ten thousand dollars (\$10,000.00) is hereby established as the dollar amount applicable in the provisions of Tennessee Code Annotated, § 6-56-301 et seq. Any expenditure in excess of twenty-five hundred dollars (\$2,500.00) shall require approval of the board of commissioners. (Ord. #93-263, Feb. 1994, as amended by Ord. #98-302, Dec. 1998, and Ord. #2001-319, May 2001)

CHAPTER 2

PROPERTY TAXES¹

SECTION

5-201. Property assessments.

5-201. Property assessments. The assessments as prepared by the Metropolitan Tax Assessor for Davidson County shall be and constitute the assessments for the city as the same relate to property located within the city pursuant to Tennessee Code Annotated, § 6-22-106. (1986 Code, § 6-201)

¹State law references

Tennessee Code Annotated, §§ 67-1-701, 67-1-702 and 67-1-801, read together, permit a municipality to collect its own property taxes if its charter authorizes it to do so, or to turn over the collection of its property taxes to the county trustee. Apparently, under those same provisions, if a municipality collects its own property taxes, tax due and delinquency dates are as prescribed by the charter; if the county trustee collects them, the tax due date is the first Monday in October, and the delinquency date is the following March 1.

Tennessee Code Annotated, § 67-5-2010(b) provides that if the county trustee collects the municipality's property taxes, a penalty of 1/2 of 1% and interest of 1% shall be added on the first day of March, following the tax due date and on the first day each succeeding month.

CHAPTER 3**PRIVILEGE TAXES****SECTION**

5-301. Tax levied.

5-301. Tax levied. The taxes provided in the Public Acts of 1971 Chapter 387, and any amendments thereto, known as the "Business Tax Act" (T.C.A. title 67, chapter 4, part 7) are hereby enacted, ordained and levied on the businesses, business activities, vocations, or occupations doing business or exercising a taxable privilege as provided by said act, in Berry Hill, Tennessee, at the rates and in the manner prescribed by the said act. The proceeds of the privilege taxes herein levied shall accrue to the general fund. (1986 Code, § 6-301)

TITLE 6**LAW ENFORCEMENT****CHAPTER****1. WORKHOUSE.****CHAPTER 1****WORKHOUSE****SECTION**

6-101. County workhouse to be used.

6-102. Inmates to be worked.

6-103. Compensation of inmates.

6-101. County workhouse to be used. The county workhouse is hereby designated as the municipal workhouse, subject to such contractual arrangement as may be worked out with the county. (1986 Code, § 1-601)

6-102. Inmates to be worked. All persons committed to the workhouse, to the extent that their physical condition shall permit, shall be required to perform such public work or labor as may be lawfully prescribed for the county prisoners. (1986 Code, § 1-602)

6-103. Compensation of inmates. Each workhouse inmate shall be allowed five dollars (\$5.00) per day as credit toward payment of the fines and costs assessed against him. (1986 Code, § 1-603)

TITLE 7**FIRE PROTECTION AND FIREWORKS¹****CHAPTER****1. FIREWORKS.****CHAPTER 1****FIREWORKS****SECTION**

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

7-102. Definitions.

7-103. Punishment for violation.

7-101. Unlawful acts in the sale of fireworks. It is unlawful to offer for sale or to sell fireworks in the City of Berry Hill, Tennessee. (Ord. #95-275, Nov. 1995)

7-102. Definitions. (1) Fireworks for purposes of this chapter is defined in the same manner as fireworks are defined in the Tennessee Code Annotated pursuant to the provisions of Tennessee Code Annotated, § 68-104-101(2) as it may hereafter be amended. Fireworks shall also mean all articles of fireworks as are now or hereafter classified as "D.O.T." Class C common fireworks in the regulations of the United States Department of Transportation for transportation of explosive and other dangerous articles.

(2) Sale means an exchange of articles of fireworks for money or a transaction for profit involving fireworks. (Ord. #95-275, Nov. 1995)

7-103. Punishment for violation. Each violation of this chapter shall be punishable by a fifty dollar (\$50.00) fine. (Ord. #95-275, Nov. 1995)

¹Municipal code reference

Building and housing codes: title 12.

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

1. INTOXICATING LIQUORS.
2. BEER.

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

- 8-101. Exemptions.
- 8-102. Definitions.
- 8-103. Issuance of license.
- 8-104. Tax on businesses selling for consumption on the premises.
- 8-105. Inspection fee on retail liquor dealers.
- 8-106. Minors not to be employed by certain businesses.

8-101. Exemptions. Nothing in this chapter is intended to relate to the sale, traffic in, distribution of, or tax upon any beverage of an alcoholic content of 5% by weight, or less. (1986 Code, § 2-101)

8-102. Definitions. Whenever used in this chapter, unless the context requires otherwise:

(1) "Alcoholic beverage" means and includes alcohol, spirits, liquor, wine, and every liquid containing alcohol, spirits, wine and capable of being consumed by human beings, other than patented medicines, beer or wine, where the latter two contain an alcoholic content of 5% by weight, or less.

(2) "License" means a license issued for "retail sale" or "sale at retail" being a sale to the consumer or to any person for any purpose other than for resale.

(3) "Retailer" means any person who sells at retail any beverage for the sale of which a license is required under the provisions of this chapter. (1986 Code, § 2-102)

8-103. Issuance of license. For the retail sale of alcoholic beverages, as defined in this chapter, a license may be issued only as herein provided. Any

¹State law reference

Tennessee Code Annotated, title 57.

person desiring to sell alcoholic beverages to patrons as customers, in sealed packages only, and not for consumption on the premises, shall make application to the mayor for a retailer's license, and the mayor may issue said license if he considers the person to be of good moral character.

Not more than four (4) licenses shall be issued for each 5,000 persons, or any fraction thereof, residing in the city, by the federal census of 1970, or any subsequent federal census. (1986 Code, § 2-103)

8-104. Tax on businesses selling for consumption on the premises.

There is hereby levied the following privilege taxes on every person who exercises within the city the privilege of engaging in the business of selling at retail alcoholic beverages for consumption on the premises:

Common carrier, for each dining car, plane, ship, boat or other vehicle	\$ 100.00
Private club	300.00
Hotel and motel	1,000.00
Restaurant, according to seating capacity, on licensed premises:	
75 - 125 seats	\$ 600.00
126 - 175 seats	750.00
176 - 225 seats	800.00
226 - 275 seats	900.00
276 - seats and over	1,000.00

Said taxes shall be payable annually to the city. Upon payment of the privilege tax as set out above, the city, or its duly appointed officer or representative, shall issue a receipt for the payment of said tax which shall be displayed by the holder thereof at all times in a conspicuous place in the permit holder's establishment licensed under Tennessee Code Annotated, §57-4-101, et seq.

It is the intention of the city that this section shall be construed liberally to carry out its intent which is to levy and collect privilege taxes which by the Public Acts of 1967, chapter 211 may be levied and collected within the city, said privilege taxes to be levied in the same manner and to the same extent as provided by law. The words, phrases or terms as defined in the Tennessee Code Annotated, title 57, chapter 1 of as amended shall have the same definitions ascribed to them when used in this chapter. (1986 Code, § 2-104)

8-105. Inspection fee on retail liquor dealers. There is hereby levied an inspection fee, upon retail liquor dealers operating within the city, in the amount of five percent (5%) of all liquor sold by said dealers in the city.

Said inspection fee shall be collected as provided by Public Acts of 1968, chapter 538, and all other provisions for the collection and penalties provided in said act shall be as specified in Public Acts of 1968, chapter 538. (1986 Code, § 2-105)

8-106. Minors not to be employed by certain businesses. It shall be unlawful for any person under eighteen (18) years of age to be employed, permitted or suffered to work in any place or establishment in which intoxicating alcoholic liquors are served or sold for consumption on the premises or in which such alcoholic beverages are manufactured or bottled. (1986 Code, § 2-106)

CHAPTER 2

BEER

SECTION

- 8-201. Beer permit board.
- 8-202. Membership; appointment, compensation and removal of members; filling of vacancies.
- 8-203. Organization.
- 8-204. Meetings; quorum; minutes of meetings; vote required in regard to permits.
- 8-205. Definitions.
- 8-206. Traffic in alcoholic beverages of less than five percent permitted.
- 8-207. Restrictions on sales by wholesalers.
- 8-208. Limitation on purchases from persons not holding permits.
- 8-209. Selling or exchanging beer between retailers prohibited.
- 8-210. Sale or storage of beer by retailers authorized only at specific location designated on permit.
- 8-211. Retailer may deliver beer only on premises for which permit is issued.
- 8-212. Wholesale and retail permits.
- 8-213. Types of permits.
- 8-214. Applications; agreements by applicants; floor plans.
- 8-215. Permit required for engaging in beer business.
- 8-216. Privilege tax.
- 8-217. Conditions of permits.
- 8-218. Minimum distance from residential area, church, school or park; conditions under which issuance of permit prohibited.
- 8-219. Term.
- 8-220. Renewal.
- 8-221. Address of location where sales are authorized to be specified on permit.
- 8-222. Nontransferable.
- 8-223. Suspension and revocation.
- 8-224. Prohibited acts--generally.
- 8-225. Same--by permit holder or agents or employees.
- 8-226. Civil penalty in lieu of revocation or suspension.
- 8-227. Loss of clerk's certification for sale to minor.

8-201. Beer permit board. A beer permit board is hereby created and designated the beer permit board. (1986 Code, § 2-201)

8-202. Membership; appointment, compensation and removal of members; filling of vacancies. The beer permit board shall consist of five (5)

members, who are residents of the city, to be appointed by the mayor and confirmed by the board of commissioners, and who shall hold office at the pleasure of the mayor. Any vacancy in the board for any reason shall be filled in the same manner as an original appointment. Members of the beer permit board shall receive \$50 for each attendance at a regular meeting of the board. The members presently constituting the beer permit board shall succeed to the rights, powers, duties and obligations of the board, subject to change as authorized by this section. Notwithstanding the foregoing, any member of such board may be removed from office without cause by a two-thirds (2/3rds) vote of the board of commissioners of the city. (1986 Code, § 2-202, as amended by Ord. #89-248, Dec. 1989)

8-203. Organization. The beer permit board shall organize by the election of a chairman and a secretary, who shall serve for a period of one year, or until a successor shall have been chosen. (1986 Code, § 2-203)

8-204. Meetings; quorum; minutes of meetings; vote required in regard to permits. The beer permit board shall hold one regular meeting each month at 6:00 P.M., on the first Tuesday of each month, except when such day shall fall on a holiday, in which event said meeting shall be held on the following day.

The attendance of at least a majority of the members of the board shall be required to constitute a quorum for the purpose of transacting business.

Minutes shall be kept of the meetings in permanent form and a record shall be kept of the action of the board with respect to every application for a permit. The concurring vote of a majority of the members of the board shall be necessary to the granting, revoking or any other action by the board concerning permits.

No transcript of the proceedings before the board shall be in any form other than narrative, unless the board shall have been requested to provide for an exact copy of the testimony by an interested party at least 24 hours prior to a board meeting. The cost of an exact copy shall be borne by the person requesting the same. (1986 Code, § 2-204, as amended by Ord. #2001-323, Nov. 2001)

8-205. Definitions. For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

(1) "Authorized wholesaler." A wholesaler holding a valid wholesale permit issued by the beer permit board.

(2) "Beer." Beer, ale or any other beverage having an alcoholic content of not more than five percent (5%) by weight.

(3) "Church." A building or property where a congregation regularly meets at least one day per week for religious worship.

(4) "Beer permit board." That administrative body organized and empowered under the authority of Tennessee Code Annotated, §57-5-108 and created by this chapter.

(5) "Park." A place or property either owned or maintained by the city, or by a utility district, or the metropolitan government, where persons regularly gather for recreational purposes or as spectators.

(6) "Permit." Any permit issued pursuant to this chapter.

(7) "Permittee." Any person to whom any permit has been issued pursuant to this chapter.

(8) "Retailer." Any person licensed by the beer permit board who sells beer for consumption and not for resale.

(9) "Retailer off-premises permit." A permit issued by the beer permit board to a retailer engaged in the sale of beer which is not to be consumed by the purchaser upon the premises of such permittee.

(10) "Retailer on-premises permit." A permit issued by the beer permit board to a retailer engaged in the sale of beer which is to be consumed by the purchaser only upon the premises of such permittee.

(11) "School." An institution, including kindergarten, where regular classes are conducted under the supervision of a teacher or teachers, but such term shall not include schools or colleges wherein only specialized subjects, such as law, medicine, dentistry, music, art, vocational occupations and similar special subjects are taught to young students over the age of twenty-one (21) years.

(12) "Sell." Such term includes taking or receiving an order for, keeping or exposing for sale, delivering for value, keeping for intent to sell and trafficking in beer.

(13) "Wholesale beer permit." A permit issued by the beer permit board to distributors, manufacturers, brewers or any branch of a brewer or manufacturer selling beer solely to retailers.

(14) "Wholesaler." Any person who sells beer to retailers. Such term shall include a distributor, manufacturer, brewer or brewery branch making sales of beer directly to retailers. (1986 Code, § 2-205)

8-206. Traffic in alcoholic beverages of less than five percent permitted. It shall be lawful to transport, store, sell, distribute, possess, receive and manufacture beer, as defined in § 8-205, within the geographical area of the city, subject to all regulations, limitations and restrictions provided in this chapter. (1986 Code, § 2-206)

8-207. Restrictions on sales by wholesalers. It shall be unlawful for any authorized wholesaler to sell beer to anyone other than a person, firm, corporation, syndicate or association having been authorized and licensed by any city or county as a retailer by a board duly created for the purpose of licensing retail establishments. (1986 Code, § 2-207)

8-208. Limitation on purchases from persons not holding permits. No person, except an authorized wholesaler, may sell or store beer within the city unless such beer has been purchased from an authorized wholesaler. (1986 Code, § 2-208)

8-209. Selling or exchanging beer between retailers prohibited. It shall be unlawful for any retailer holding a permit issued by the beer permit board to purchase, accept as a gift or loan, or to receive, swap or exchange, beer for the purpose of resale from any person who is not the holder of a valid wholesale permit issued by the board. ((1986 Code, § 2-209)

8-210. Sale or storage of beer by retailers authorized only at specific location designated on permit. Retailers holding permits to sell beer are authorized to sell and store beer at only the location authorized by the beer permit board and specifically designated on their respective permits as the place for which the permit is issued. The sale or storage of beer by a retailer at any place other than the location authorized by the board and specifically named on the face of his permit is prohibited. (1986 Code, § 2-210)

8-211. Retailer may deliver beer only on premises for which permit is issued. Retailers holding permits from the beer permit board are only authorized to deliver beer on the premises for which the permit is issued. The delivery of beer by a retail permit holder at any place other than the premises for which his permit is issued is prohibited. No retail permit holder shall enter into any agreement with any person or conspire with any person to cause beer to be delivered off of the premises for which his permit is issued or at any location other than the one authorized by his permit for the sale of beer.

It shall be unlawful for any holder of a retail beer permit knowingly to permit the purchase of beer at his place of business by anyone for resale and delivery to another. Holders of retail beer permits issued by the board are prohibited from selling beer to any person when the retail permit holder knows or should have reason to know that such beer is purchased for resale and delivery off of the premises for which his permit is issued. (1986 Code, § 2-211)

8-212. Wholesale and retail permits. No person shall sell beer within the territorial jurisdiction of the city without being the holder of a valid annual permit issued by the beer permit board. (1986 Code, § 2-212)

8-213. Types of permits. The following types of permits may be issued by the beer permit board:

(1) A wholesaler's permit shall be issued to each distributor, manufacturer, brewer or brewery or manufacturer's branch selling beer only directly to retailers.

(2) A retailer's "off-sale" permit shall be issued to any person engaged in the sale of beer for consumption and not for resale where the beer sold is not to be consumed by the purchaser upon or near the premises of such seller.

(3) A retailer's "on-sale" permit shall be issued to any person engaged in the sale of beer where the beer is to be consumed by the purchaser or his guests upon the premises of the seller. A retailer's "on-sale" permit may be issued to regularly conducted hotels or motels and to regularly incorporated clubs and lodges in which places beer may be sold and consumed by the purchaser when a retailer's "on-sale" permit has been issued for the premises. (1986 Code, § 2-213)

8-214. Applications; agreements by applicants; floor plans. (1) Any resident of Davidson County desiring a beer permit shall file with the beer permit board a written application under oath at least ten (10) days prior to the date of hearing. No such permit shall be issued until the board has approved the written application for the permit, which application shall contain questions necessary to the determining of whether or not the applicant has met all laws of this state and all provisions of this chapter. The form of such application shall be prescribed by the board and approved by the city's legal department. The applicant shall establish the following:

(a) That he is a citizen of the United States, or if a syndicate or association, that all the members are citizens of the United States.

(b) That no persons will be employed in the storage, sale, or manufacture of any such beverage except citizens of the United States.

(c) That no such beverages will be sold except at places where such sale will not cause congestion of traffic or interference with schools, churches or other places of public gathering, or otherwise interfere with public health, safety and morals.

(d) That no sale shall be made to persons under the age of twenty-one (21) years except as may be made lawful by the laws of the State of Tennessee or of the United States Government.

(e) That neither the applicant nor any persons employed by him in such distribution or sale shall be a person who has been convicted of

any violation of the laws against possession, sale, manufacture or transportation of intoxicating liquor or any crime involving moral turpitude within the past ten years.

(f) The application shall distinctly state whether the person so applying will conduct the business in person, or whether he is acting as agent for any other person, firm, corporation, syndicate, association or joint-stock company, and any person making any false statement in such application shall forfeit his permit and shall not be eligible to receive any permit for a period of ten (10) years; provided, that the board shall have the right to license any person, firm, corporation, syndicate, joint-stock company or association carrying on any other regular business to store and sell in connection therewith such beer and/or other beverages.

(2) The board, in its discretion, may include in the application hereinbefore mentioned, such other questions and inquiries as it deems relevant and material to protect the public health, safety and morals of the residents of the city.

(3) No permittee shall open his premises to the public for the sale of beer until the permittee shall first have filed with the board floor plans and diagrams completely disclosing and designating a physical arrangement of the premises, should the board so require the same of any applicant. (1986 Code, § 2-214, as amended by Ord. #89-248, Dec. 1998)

8-215. Permit required for engaging in beer business. It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board. The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to Tennessee Code Annotated, § 57-5-101(b), and shall be accompanied by a non-refundable application fee of two hundred and fifty dollars (\$250.00). Said fee shall be in form of a cashier's check or its equivalent payable to the City of Berry Hill. Each applicant must be a person of good moral character and certify that he has read and is familiar with the provisions of this chapter. (Ord. #93-262, Sept. 1993)

8-216. Privilege tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer an annual privilege tax of one hundred dollars (\$100). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax on January 1, 1994, and each successive January 1, to the City of Berry Hill, 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. (Ord. #93-262, Sept. 1993)

8-217. Conditions of permits. Every person to whom a beer permit is issued agrees to the following conditions:

(1) The premises are declared to be a public place for the purpose of inspection by the beer inspectors, by officers of the police department or by any other duly authorized law enforcement officer.

(2) The permit holder shall keep invoices and all other memoranda fully descriptive relating in any way to the storing, sale, distribution by sale or gift or manufacture of beer, and he shall permit the city manager, or his duly authorized agents, representatives or employees, to inspect, at any time during the business hours of the day, all such articles, containers, packages, invoices, books, papers, and memoranda as may be necessary in the opinion of the city manager, or his authorized agent, representative or employee, in ascertaining whether or not all state and local taxes have been paid or in determining the amount of such taxes that may be due.

(3) The permit holder shall display all permits issued pursuant to this chapter in a conspicuous place, together with all other permits, licenses and stamps required by law. (1986 Code, § 2-217)

8-218. Minimum distance from residential area, church, school or park; conditions under which issuance of permit prohibited. (1) No beer permit shall be issued to an applicant whose location is less than two hundred and fifty (250) feet from an area zoned residential in the city, a church, park or school. No retailer's on-sale permit shall be issued to an applicant whose location is less than two hundred and fifty (250) feet from a licensed day care center or nursery. In determining the distance from a residential area, a church, or school, the distance shall be measured from the center of the nearest permanent entrance of the residence, church, or school building being used for residential, religious, or educational purposes following the usual and customary path of pedestrian travel to the center of the main entrance of the potential licensee. Distances from parks and play grounds shall be measured from the nearest boundary of such park or play ground to the main entrance of the potential licensee. The provisions set forth herein shall not apply to permittees holding a permit issued prior to the approval of this chapter and in violation of such provisions. Provided, renewal of such permits shall be granted only to those permittees as defined in this chapter holding valid permits on the effective date of this chapter and to transferees or such permittees who were operating under valid permits prior to the enactment of this chapter.

(2) No permit shall be issued to any person for a location which fails to comply with any health ordinance or any regulation of the metropolitan health department or which would violate any zoning ordinance of the city.

(3) Where a beer permit is revoked, no new permit shall be issued to permit the sale of beer until after the expiration of one year from the date such

revocation becomes effective; provided, however, in the event the beer permit board shall be convinced that the ownership of the establishment has been transferred to a bona fide new owner who will cause compliance with this beer ordinance, then this provision may be waived. (1986 Code, § 2-218)

8-219. Term. No permit to sell beer, issued by the beer permit board, shall be valid for more than one year from the date it is issued. (1986 Code, § 2-219)

8-220. Renewal. Permits shall be renewable annually on the anniversary of the permit. Holders of valid annual permits shall apply for the renewal permit at least ten days before the expiration of the valid permit which the renewal permit is to replace. (1986 Code, § 2-220)

8-221. Address of location where sales are authorized to be specified on permit. The specific address or description of the location where beer is authorized to be sold shall be stated on the face of each permit issued by the beer permit board, and no permit shall be valid unless such address or description of location is stated on the face of such permit. (1986 Code, § 2-221)

8-222. Nontransferable. Permits issued by the beer permit board shall not be transferred from one person to another. Where the holder of a permit desires to move his place of business from one location to another, he shall apply for a new permit for the new location, and he shall surrender the permit for the location which he has abandoned. Provided, however, that any license holder who proposes to surrender his license for any voluntary reason may send a written request to the beer permit board stating that a new application for license has been filed in lieu of his license, and that the new applicant may operate under the former license and that he shall be responsible for all violations of the interim applicant in the event the board allows such applicant to operate pending the cancellation of the former license and issuance of a new license to the applicant. (1986 Code, § 2-222)

8-223. Suspension and revocation. (1) The beer permit board shall have the power to revoke or suspend, and shall be charged with the duty of revoking or suspending, any permits issued by it, upon notice to the permittee and a hearing thereon, for any violation of any provision of state law regulating the sale, storage and transportation of alcoholic beverages or for any violation of any provision of this chapter, or when the permittee:

- (a) Operates a disorderly place; or
- (b) Permits gambling on the premises; or
- (c) Permits boisterous or disorderly conduct on the premises; or

(d) Has been convicted by final judgment of a court of competent jurisdiction of a crime involving moral turpitude; or

(e) Permits minors to congregate about the premises; or

(f) Sells or transfers the equipment or assets of the business authorized by his permit to another for the purpose of conducting the business at the same location, unless he shall first notify the board, in writing, of the proposed sale or transfer and gives the name and address of the purchaser fifteen (15) days prior to the time the lease, sale, or transfer is to be consummated and notifies the board that he will surrender his license upon the lease, sale or transfer; or

(g) Has made a false statement of a material fact in any application or notice to the board; or

(h) Sells or allows to be sold on the premises of the permittee any beer to any person under the age of twenty-one (21) years except as authorized by state law.

(2) Pursuant to Tennessee Code Annotated, § 57-5-608, the beer board shall not revoke or suspend the permit of a "responsible vendor" qualified under the requirements of Tennessee Code Annotated, § 57-5-606 for a clerk's illegal sale of beer to a minor if the clerk is properly certified and has attended annual meetings since the clerk's original certification, unless the vendor's status as a certified responsible vendor has been revoked by the alcoholic beverage commission. If the responsible vendor's certification has been revoked, the vendor shall be punished by the beer board as if the vendor were not certified as a responsible vendor. "Clerk" means any person working in a capacity to sell beer directly to consumers for off-premises consumption. Under Tennessee Code Annotated, § 57-5-608, the alcoholic beverage commission shall revoke a vendor's status as a responsible vendor upon notification by the beer board that the board has made a final determination that the vendor has sold beer to a minor for the second time in a consecutive twelve (12) month period. The revocation shall be for three (3) years. (1986 Code, § 2-223, as amended by Ord. #2007-367, Nov. 2007)

8-224. Prohibited acts—generally. It shall be unlawful for any person:

(1) To bring or cause to be brought onto the premises of any permittee under the provisions of this chapter any intoxicating beverage, the alcoholic content of which is in excess of five percent (5%) by weight, unless such permittee is the holder of a valid license issued under the authority of Tennessee Code Annotated, §57-4-101, et seq.

(2) Being under the age of twenty-one (21) years, to have in his possession beer for any purpose except as may be made lawful by the laws of the State of Tennessee or of the United States government applied in and to the State of Tennessee.

(3) Being under twenty-one (21) years of age, to transport beer for any purpose, unless the same is in the course of his employment. (1986 Code, § 2-242, as amended by Ord. #89-248, Dec. 1989)

8-225. Same--by permit holder or agents or employees. It shall be unlawful for any beer permit holder or his agent or employee:

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

(2) To make or permit to be made any sale of beer to a person under twenty-one (21) years of age except as authorized by state law.

(3) To sell, give away, or allow beer to be consumed on any premises granted a permit under this chapter between the hours of 3:00 A.M. to 6:00 A.M. Monday through Saturday or between the hours of 3:00 A.M. and 12:00 noon on any Sunday.

(4) To allow any person under eighteen (18) years of age to loiter or congregate about the premises. The burden of ascertaining the age of minor persons shall be on the permit holder and his agent or employee. When a minor is seated at a table, there shall be no beer served at that table unless such minor is accompanied by one or both of his parents, but only if served in conjunction with food.

(5) To make a false statement of a material fact in his application for any beer permit.

(6) To operate a disorderly place.

(7) To permit gambling or gambling devices on the premises.

(8) To permit boisterous or disorderly conduct on the premises.

(9) To sell or transfer the equipment or assets of the business authorized by his permit to another for the purpose of continuing the business at the same location, unless he shall notify the beer permit board, in writing, of the proposed sale or transfer and give the name and address of the purchaser fifteen (15) days prior to the time the sale or transfer is to be consummated.

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

(11) Allow any intoxicated person to loiter on or about his premises.

(12) For a retailer or wholesaler to store beer in any place other than the address listed on the permit. (1986 Code, § 2-224, as amended by Ord. #89-248, Dec. 1989, and Ord. #96-279, Aug. 1996)

8-226. Civil penalty in lieu of revocation or suspension.

(1) Definition. "Responsible vendor" means a person, corporation or other entity that has been issued a permit to sell beer for off-premises consumption and has received certification by the Tennessee Alcoholic Beverage

Commission under the "Tennessee Responsible Vendor Act of 2006," Tennessee Code Annotated, § 57-5-601, et seq.

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

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

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

Payment of the civil penalty in lieu of revocation or suspension by a permit holder shall be an admission by the holder of the violation so charged and shall be paid to the exclusion of any other penalty that the city may impose. (Ord. #93-262, Sept. 1993, as replaced by Ord. #2007-367, Nov. 2007)

8-227. Loss of clerk's certification for sale to minor. (1) If the beer board determines that a clerk of an off-premises beer permit holder certified under Tennessee Code Annotated, § 57-5-606, sold beer to a minor, the beer board shall report the name of the clerk to the alcoholic beverage commission within fifteen (15) days of determination of the sale. The certification of the clerk shall be invalid and the clerk may not reapply for a new certificate for a period of one (1) year from the date of the beer board's determination.

(2) Note: Beer vendors are required to comply with the signing requirements of Tennessee Code Annotated, § 57-5-301 which requires:

(a) The posting of an eight and one-half inch by five and one-half inch (8 1/2" x 5 1/2") sign that shall read as follows: If You Aren't 21 and Are In Possession of Beer, You Could Lose Your Driver's License; and

(b) A sign eight and one-half inches by eleven inches (8 1/2" x 11") stating the following: State Law Requires Identification For The Sale of Beer. (as added by Ord. #2007-367, Nov. 2007)

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

1. REGULATIONS OF ESTABLISHMENTS TRADING IN MATERIALS AND SERVICES HARMFUL TO MINORS.
2. REGULATIONS FOR TELECOMMUNICATIONS TOWERS AND FACILITIES.
3. PEDDLERS, SOLICITORS, ETC.

CHAPTER 1**REGULATIONS OF ESTABLISHMENTS TRADING IN MATERIALS AND SERVICES HARMFUL TO MINORS****SECTION**

- 9-101. Not permitted in Residential A District.
9-102. Restrictions on location.

9-101. Not permitted in Residential A District. No business establishment or commercial venture offering for sale as a product or service any materials or services defined herein as harmful to minors shall be permitted in Residential A Districts within the City of Berry Hill. (Ord. #91-255, May 1991)

9-102. Restrictions on location. Any business establishment or commercial venture offering for sale as a product or service any materials or services defined herein as harmful to minors and any "adult bookstore," "adult cabaret," "adult entertainment," "adult mini-motion picture theater," "adult motion picture theater," "adult-oriented establishments," as defined herein, may be permitted in Commercial A and B and Industrial A Districts provided that in addition to full compliance with all other laws and ordinances the business or establishment shall also comply with the following:

(1) No such establishment may be located within 2500 feet of any residence, any property zoned for residential use, any school, school buildings or facilities, school bus stops, churches or establishments of worship. The distance of 2500 feet shall be measured from the front entrance of the business in a straight line or nearest distance to the residence, school, church or other establishment or facility.

(2) If there is offered materials for viewing on screen and on location, there must be a minimum of 500 square feet of open and unobstructed space in front of the screen.

(3) Any booths for reading or observing any materials or activities must be open and without doors or closures obstructing view into the booth or enclosure.

(4) No display of materials or products shall be visible from the public street.

(5) No such establishment may be by location and activity a nuisance.

(6) Definitions. The following definitions apply to this chapter:

(a) "Minor," any person who has not reached the age of eighteen (18) and is not emancipated.

(b) "Harmful to minors," means that quality of any description or representation, in whatever form, of nudity, sexual excitement, sexual conduct, excess violence, or sadomasochistic abuse when the matter or performance would be found by the average person applying contemporary community standards to appeal predominantly to the prurient, shameful or morbid interests of minors; is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable for minors; and taken as a whole lacks serious literary, artistic, political or scientific values for minors.

(c) "Materials harmful to minors," those materials determined by the Tennessee State Legislature to be harmful to minors as listed in Tennessee Code Annotated, § 39-17-911 or any subsequent modification of this section by legislative act or court order.

(d) "Services harmful to minors," any service associated with or connected with the delivery of any material defined under paragraph (a) of Tennessee Code Annotated, § 39-17-911 to any minor.

(e) "Adult bookstore, adult cabaret, adult entertainment, adult mini-motion picture theater, adult motion picture theater, adult oriented establishments" are those activities or establishments as defined in Tennessee Code Annotated, § 7-51-1102.

(7) In the event any one part or portion of this chapter is declared unlawful it shall not effect the remainder of the chapter. (Ord. #91-255, May 1991)

CHAPTER 2

REGULATIONS FOR TELECOMMUNICATIONS TOWERS AND FACILITIES

SECTION

- 9-201. Findings.
- 9-202. Purposes.
- 9-203. Definitions.
- 9-204. Development of towers.
- 9-205. Setbacks.
- 9-206. Towers must be certified.
- 9-207. Separation or buffer requirements.
- 9-208. Method of determining tower height.
- 9-209. Illumination.
- 9-210. Exterior finish.
- 9-211. Landscaping requirements.
- 9-212. Access.
- 9-213. Telecommunications facilities on antenna support structures.
- 9-214. Modification of towers.
- 9-215. Certifications and inspections.
- 9-216. Maintenance.
- 9-217. Criteria for site plan development modifications.
- 9-218. Abandonment.

9-201. Findings. The Communication Act of 1934 as amended by the Telecommunications Act of 1996 ("the Act") grants the Federal Communications Commission (FCC) exclusive jurisdiction over:

- (1) The regulation of the environmental effects of radio frequency (RF) emissions from telecommunications facilities, and
- (2) The regulation of radio signal interference among users of the RF spectrum.

The city's regulation of towers and telecommunications facilities in the city will not have the effect of prohibiting any person from providing wireless telecommunications services in violation of the act. (Ord. #98-300, July 1998)

9-202. Purposes. The general purpose of this chapter is to regulate the placement, construction, and modification of towers and telecommunications facilities in order to protect the health, safety, and welfare of the public, while at the same time not reasonably interfering with the development of the competitive wireless telecommunications marketplace in the city.

Specifically, the purposes of this chapter are:

- (1) To regulate the location of towers and telecommunications facilities in the city;
- (2) To protect residential areas and land uses from potential adverse impact of towers and telecommunications facilities;
- (3) To minimize adverse visual impact of towers and telecommunications facilities through careful design, siting, landscaping, and innovative camouflaging techniques;
- (4) To promote and encourage shared use/collocation of towers and antenna support structures as a primary option rather than construction of additional single-use towers;
- (5) To promote and encourage utilization of technological designs that will either eliminate or reduce the need for erection of new tower structures to support antenna and telecommunications facilities;
- (6) To avoid potential damage to property caused by towers and telecommunications facilities by ensuring such structures are soundly and carefully designed, constructed, modified, maintained, and removed when no longer used or are determined to be structurally unsound; and
- (7) To ensure that towers and telecommunications facilities are compatible with surrounding land uses. (Ord. #98-300, July 1998)

9-203. Definitions. The following words, terms, and phrases, when used in this section, shall have the meaning:

- (1) "Antenna support structure" means any building or structure other than a tower which can be used for location of telecommunications facilities.
- (2) "Applicant" means any person that applies for a tower development permit.
- (3) "Application" means the process by which the owner of a parcel of land within the city submits a request to develop, construct, build, modify, or erect a tower upon such parcel of land. Application includes all written documentation, verbal statements, and representations, in whatever form or forum, made by an applicant to the city concerning such a request.
- (4) "Engineer" means any engineer licensed by the State of Tennessee.
- (5) "Owner" means any person with fee title or a long-term (exceeding ten (10) years) leasehold to any parcel of land within the city who desires to develop, or construct, build, modify, or erect a tower upon such parcel of land.
- (6) "Person" is any natural person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not for profit.
- (7) "Stealth" means any tower or telecommunications facility which is designed to enhance compatibility with adjacent land uses, including but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and towers designed to look other than like a tower

such as light poles, power poles, and trees. The term stealth does not necessarily exclude the use of uncamouflaged lattice, guyed, or monopole tower designs.

(8) "Telecommunications facilities" means any cables, wires, lines, wave guides, antennas, and any other equipment or facilities association with the transmission or reception of communications which a person seeks to locate or has installed upon or near a tower or antenna support structure. However, telecommunications facilities shall not include:

(a) Any satellite earth station antenna two (2) meters in diameter or less which is located in an area zoned industrial or commercial; or

(b) Any satellite earth station antenna one (1) meter or less in diameter, regardless of zoning category.

(9) "Tower" means a self-supporting lattice, guyed, or monopole structure constructed from grade which supports telecommunications facilities. The term tower shall not include amateur radio operators' equipment, as licensed by the FCC. (Ord. #98-300, July 1998)

9-204. Development of towers. (1) A tower shall be a permitted use of land in zoning districts commercial A and B and industrial A. No person shall build, erect, or construct a tower upon any parcel of land within a zoning district designated residential unless a development permit shall have been issued by the development review committee of the city. Application shall be made to the development review committee in the manner provided in this chapter.

(2) A tower shall be conditional use of land in the following zoning districts:

Commercial A

Commercial B

Industrial A

No person shall build, erect, or construct a tower upon any parcel of land within any zoning district set forth above unless a development permit shall have been issued by the development review committee of the city and approval of the city planning and zoning board is obtained.

(3) Towers are exempt from the maximum height restrictions of the districts where located. Towers shall be permitted to a height of one hundred and fifty (150) feet. Towers may be permitted in excess of one hundred and fifty (150) feet in accordance with § 9-217 "Criteria for site plan development modifications."

(4) No new tower shall be built, constructed, or erected in the city unless the tower is capable of supporting another person's operating telecommunications facilities comparable in weight, size, and surface area to the

telecommunications facilities installed by the applicant on the tower within six (6) months of the completion of the tower construction.

(5) An application to develop a tower shall include:

(a) The name, address, and telephone number of the owner and lessee of the parcel of land upon which the tower is situated.

(b) The legal description, folio number, and address of the parcel of land upon which tower is situated.

(c) The names, addresses, and telephone numbers of all owners of other towers or usable antenna support structures within a one-half (½) mile radius of the proposed new tower site, including city-owned property.

(d) A description of the design plan proposed by the applicant in the city. Applicant must identify its utilization of the most recent technological design, including microcell design, as part of the design plan. The applicant must demonstrate the need for towers and why design alternatives, such as the use of microcell, cannot be utilized to accomplish the provision of the applicant's telecommunications services.

(e) An affidavit attesting to the fact that applicant made diligent, but unsuccessful, efforts to install or collocate the applicant's telecommunications facilities on city-owned towers or usable antenna support structures located within a one-half (½) mile radius of the proposed tower site.

(f) An affidavit attesting to the fact that the applicant made diligent, but unsuccessful, efforts to install or collocate the applicant's telecommunications facilities on towers or usable antenna support structures owned by the other persons located within one-half (½) mile radius of the proposed tower site.

(g) Written technical evidence from an engineer(s) that the proposed tower or telecommunications facilities cannot be installed or collocated on another person's tower or usable antenna support structures owned by other persons located within one-half (½) mile radius of the proposed tower site.

(h) A written statement from an engineer(s) that the construction and placement of the tower will not interfere with public safety communications and the usual and customary transmission or reception of radio, television, or other communications services enjoyed by adjacent residential and non-residential properties.

(i) Written, technical evidence from an engineer(s) that the proposed structure meets the standards set forth in § 9-206, "structural requirements," of this chapter.

(j) Written, technical evidence from qualified engineer(s) acceptable to the fire marshal and the building official that the proposed

site of the tower or telecommunications facilities does not pose a risk of explosion, fire, or other danger to life or property due to its proximity to volatile, flammable, explosive, or hazardous materials such as LP gas, propane, gasoline, natural gas, or corrosive or other dangerous chemicals.

(k) In order to assist city staff and the planning and zoning board in evaluating visual impact, the applicant shall submit color photo simulations showing the proposed site of the tower with a photo-realistic representation of the proposed tower as it would appear viewed from the closest residential property and from adjacent roadways.

(l) The act gives the FCC sole jurisdiction of the field of regulation of RF emissions and does not allow the city to condition or deny on the basis of RF impacts the approval of any telecommunication facilities (whether mounted on towers or antenna support structures) which meet FCC standards. In order to provide information to its citizens, the city shall make available upon request copies of ongoing FCC information and RF emission standards for telecommunications facilities transmitting from towers or antenna support structures. Applicants shall be required to submit information on the proposed power density of their proposed telecommunications facilities and demonstrate how this meets FCC standards.

(6) The development review committee may require an applicant to supplement any information that the committee considers inadequate or that the applicant has failed to supply the committee may deny an application on the basis that the applicant has not satisfactorily supplied the information required in this subsection. Applications shall be reviewed by the city in a prompt manner and all decisions shall be supported in writing setting forth the reasons for denial. (Ord. #98-300, July 1998)

9-205. Setbacks. (1) All towers up to one-hundred (100) feet in height shall be set back on all sides a distance equal to the underlying setback requirement in the applicable zoning district. Towers in excess of one hundred (100) feet in height shall be set back one (1) additional foot per each foot of tower height in excess of one hundred (100) feet.

(2) Setback requirements for towers shall be measured from the base of the tower to the property line of the parcel of land on which it is located.

(3) Setback requirements may be modified, as provided in § 9-217(2)(a), when placement of a tower in location which will reduce the visual impact can be accomplished. For example, adjacent to trees which may visually may hide the tower. (Ord. #98-300, July 1998)

9-206. Towers must be certified. All towers must be designed and certified by an engineer to be structurally sound outlined in this chapter. All towers in operation shall be fixed to land. (Ord. #98-300, July 1998)

9-207. Separation or buffer requirements. For the purpose of this section, the separation distances between towers shall be measured by drawing or following a straight line between the base of the existing or approved structure and the proposed base, pursuant to a site plan of the proposed tower. Tower separation distances from residentially zoned lands shall be measured from the base of a tower to the closest point of residentially zoned property. The minimum tower separation distances from residentially zoned land and from other towers shall be calculated and applied irrespective of city jurisdiction boundaries.

(1) Towers shall be separated from all residentially zoned lands by a minimum of two hundred (200) feet or two hundred (200) percent of the height of the proposed tower, whichever is greater.

(2) Proposed towers must meet the following minimum separation requirements from existing towers or towers which have a development permit but are not yet constructed at the time a development permit is granted pursuant to this code:

(a) Monopole tower structures shall be separated from all other towers, whether monopole, self-supporting lattice, or guyed, by a minimum of seven hundred and fifty (750) feet.

(b) Self-supporting lattice or guyed tower structures shall be separated from all other self-supporting or guyed towers by a minimum of fifteen hundred (1,500) feet.

(c) Self-supporting lattice or guyed tower structures shall be separated from all monopole towers by a minimum of seven hundred and fifty (750) feet. (Ord. #98-300, July 1998)

9-208. Method of determining tower height. Measurement of tower height for the purpose of determining compliance with all requirements of this section shall include the tower structure itself, the base pad, and any other telecommunication facilities attached thereto which extend more than twenty (20) feet over the top of the tower structure itself. Tower height shall be measured from grade. (Ord. #98-300, July 1998)

9-209. Illumination. Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA). Upon commencement of construction of a tower, in cases where there are residential uses located within a distance which is three hundred (300) percent of the height of the tower

from the tower and when required by federal law, dual mode lighting shall be requested from the FAA. (Ord. #98-300, July 1998)

9-210. Exterior finish. Towers not requiring FAA painting or marking shall have an exterior finish which enhances compatibility with adjacent land uses, as approved by the appropriate reviewing body. (Ord. #98-300, July 1998)

9-211. Landscaping requirements. All landscaping on a parcel of land containing towers, antenna support structures, or telecommunications facilities shall be in accordance with the applicable landscaping requirements in the zoning district where the tower, antenna support structure, or telecommunications facilities are located. The city may require landscaping in excess of the requirements in the city code in order to enhance compatibility with adjacent land uses. Landscaping shall be installed on the outside of any fencing. (Ord. #98-300, July 1998)

9-212. Access. A parcel of land upon which a tower is located must provide access to at least one (1) paved vehicular parking space on site. (Ord. #98-300, July 1998)

9-213. Telecommunications facilities on antenna support structures. Any telecommunications facilities which are not attached to a tower may be permitted on any antenna support structure at least fifty (50) feet tall, regardless of the zoning restrictions applicable to the zoning district where the structure is located. Telecommunications facilities are prohibited on all other structures. The owner of such structure shall, by written certification to the zoning administrator, establish the following at the time plans are submitted for a building permit.

(1) That the height from grade of the telecommunications facilities shall not exceed the height from grade of the antenna support structure by more than twenty (20) feet.

(2) That any telecommunications facilities and their appurtenances, located above the primary roof of an antenna support structure, are set back one (1) foot from the edge of the primary roof for each one (1) foot in height above the primary roof of the telecommunications facilities. This setback requirement shall not apply to telecommunication facilities and their appurtenances, located above the primary roof of an antenna support structure, if such facilities are appropriately screened from view through the use of panels, walls, fences, or other screening techniques approved by the city. Setback requirements shall not apply to stealth antennas which are mounted to the exterior of antenna support structures below the primary roof, but which do not protrude more than

eighteen (18) inches from the side of such an antenna support structure. (Ord. #98-300, July 1998)

9-214. Modification of towers. (1) A tower existing prior to the effective date of this chapter, which was in compliance with the city's zoning regulations immediately prior to the effective date of this chapter, may continue in existence as a non-conforming structure. Such non-conforming structures may be modified or demolished and rebuilt without complying with any of the additional requirements of this section, except for §§ 9-207, "Separation or buffer requirements," 9-215 "Certification and inspections," and 9-216 "Maintenance," provided:

(a) The tower is being modified or demolished and rebuilt for the sole purpose of accommodating, within six (6) months of the completion of the modification or rebuild, additional telecommunications facilities comparable in weight, size, and surface area to the discrete operating telecommunications facilities of any person currently installed on the tower.

(b) An application for a development is made to the development review committee which shall have the authority to issue a development permit without further approval. The grant of a development permit pursuant to this section allowing the modification or demolition and rebuild of an existing non-conforming tower shall not be considered a determination that the modified or demolished and rebuilt tower is conforming.

(c) The height of the modified or rebuilt tower and telecommunications facilities attached thereto do not exceed the maximum height allowed under this chapter.

(2) Except as provided in this section, a non-conforming structure or use may not be enlarged, increased in size, or discontinued in use for a period of more than one hundred eighty (180) days. This chapter shall not be interpreted to legalize any structure or use existing at the time this chapter is adopted which structure or use is in violation of the code prior to enactment of this chapter. (Ord. #98-300, July 1998)

9-215. Certifications and inspections. Building code and all other construction. (1) All towers shall be certified by an engineer to be structurally sound in conformance with the requirements of the standards set forth by the city's code and federal and state law. For new monopole towers, such certification shall be submitted with an application pursuant to § 9-204 of this chapter and every five (5) years thereafter. For existing monopole towers, certifications shall be submitted within sixty (60) days of the effective date of this chapter and then every five (5) years thereafter. For new lattice or guyed

towers, such certification shall be submitted with an application pursuant to § 9-204 of this chapter and every two (2) years thereafter. For existing lattice or guyed towers, certification shall be submitted within sixty (60) days of the effective date of this chapter and then every two (2) years thereafter. The tower owner may be required by the city to submit more frequent certifications should there be reason to believe that the structural and electrical integrity of the tower is jeopardized.

(2) The city or its agents shall have authority to enter onto the property upon which a tower is located, between the inspection and certification required above, to inspect the tower for the purpose of determining whether it complies with the building code and all other construction standards provided by the city code and federal and state law.

(3) The city reserves the right to conduct such inspections at any time, upon reasonable notice to the tower owner. All expenses related to such inspections by the city shall be borne by the tower owner. (Ord. #98-300, July 1998)

9-216. Maintenance. (1) Tower owners shall at all times employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.

(2) Tower owners shall install and maintain towers, telecommunications, facilities, wires, cables, fixtures, and other equipment in substantial compliance with the requirements of the National Electric Safety Code and all FCC, state, and local regulations, and in such manner that will not interfere with the use of other property.

(3) All towers, telecommunications facilities, and antenna support structures shall

(4) All maintenance or construction of towers, telecommunications facilities, or antenna support structures shall be performed by licensed maintenance and construction personnel.

(5) All towers shall maintain compliance with current RF emission standards of the FCC.

(6) In the event that the use of a tower is discontinued by the tower owner, the tower owner shall provide written notice to the city of its intent to discontinue use and the date when the use shall be discontinued. (Ord. #98-300, July 1998)

9-217. Criteria for site plan development modifications.

(1) Notwithstanding the tower requirements provided in this chapter, a modification to the requirements may be approved by the planning and zoning board as a conditional use in accordance with the following:

(a) In addition to the requirements for a tower application for modification shall include the following:

(i) A description of how the plan addresses any adverse impact that might occur as a result of approving the modification.

(ii) A description of off-site or on-site factors which mitigate any adverse impacts which might occur as a result of the modification.

(iii) A technical study that documents and supports the criteria submitted by the applicant upon which the request for modification is based. The technical study shall be certified by an engineer and shall document the existence of the facts related to the proposed modifications and its relationship to surrounding rights-of-way and properties.

(iv) For a modification of the setback requirement, the application shall identify all parcels of land where the proposed tower could be located, attempts by the applicant to contract and negotiate an agreement for collocation, and the result of such attempts.

(v) The development review committee may require the application to be reviewed by an independent engineer under contract to the city to determine whether the antenna study supports the basis for the modification requested. The cost of review by the city's engineer shall be reimbursed to the city by the applicant.

(b) The planning and zoning board shall consider the application for modification based on the following criteria:

(i) That the tower as modified will be compatible with and not adversely impact the character and integrity of surrounding properties.

(ii) Off-site or on-site conditions exist which mitigate the adverse impacts, if any, created by the modification.

(iii) In addition, the board may include conditions on the site where the tower is to be located if such conditions are necessary to preserve the character and integrity of the neighborhoods affected by the proposed tower and mitigate any adverse impacts which arise in connection with the approval of the modification.

(2) In addition to the requirements of subparagraph (1) of this section, in the following cases, the applicant must also demonstrate, with written evidence, the following:

(a) In the case of a requested modification to the setback requirement, § 9-205, that the setback requirement cannot be met on the

parcel of land upon which the tower is proposed to be located and the alternative for the person is to locate the tower at another site which is closer in proximity to a residentially zoned land.

(b) In the case of a request for modification to the separation and buffer requirements from other towers of § 9-207, "Separation or buffer requirements," that the proposed site is zoned "industrial" or "heavy industrial" and the proposed site is at least double the minimum standard for separation from residentially zoned lands as provided for in § 9-207.

(c) In the case of a request for modification of the separation and buffer requirements from residentially zoned land of § 9-207, if the person provides written technical evidence from an engineer(s) that the proposed tower and telecommunications facilities must be located at the proposed site in order to meet the coverage requirements of the applicant's wireless communications system and if the person is willing to create approved landscaping and other buffers to screen the tower from being visible to residentially zoned property.

(d) In the case of a request for modification of the height limit for towers and telecommunications facilities or to the minimum height requirements for antenna support structures, that the modification is necessary to:

(i) Facilitate collocation of telecommunications facilities in order to avoid construction of a new tower; or

(ii) To meet the coverage requirements of the applicant's wireless communication system, which requirements must be documented with written, technical evidence from an engineer(s) that demonstrates that the height of the proposed tower is the minimum height required to function satisfactorily, and no tower that is taller than such minimum height shall be approved. (Ord. #98-300, July 1998)

9-218. Abandonment. (1) If any tower shall cease to be used for a period of 365 consecutive days, the (city council) shall notify the owner, with a copy to the applicant, that the site has been abandoned. The owner shall have thirty (30) days from receipt of said notice to show, by a preponderance of the evidence, that the tower has been in use or under repair during the period. If the owner fails to show that the tower has been in use or under repair during the period, the (city council) shall issue a final determination of abandonment for the site. Upon issuance of the final determination of abandonment, the owner shall, within seventy-five (75) days, dismantle and remove the tower.

(2) To secure the obligation set forth in this section, the applicant [and/or owner] shall post a bond in the amount of \$10,000.00. Such amount

shall be determined by the (city council) based on the anticipated cost of removal of the tower. (Ord. #98-300, July 1998)

CHAPTER 3

PEDDLERS, SOLICITORS, ETC.

SECTION

- 9-301. Definitions.
- 9-302. Exemptions.
- 9-303. Permit required.
- 9-304. Permit procedure.
- 9-305. Restrictions on peddlers, street barkers and solicitors.
- 9-306. Restrictions on transient vendors.
- 9-307. Display of permit.
- 9-308. Suspension or revocation of permit.
- 9-309. Expiration and renewal of permit.
- 9-310. Violation and penalty.

9-301. Definitions. Unless otherwise expressly stated, whenever used in this chapter, the following words shall have the meaning given to them in this section:

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

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

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

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

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

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

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

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

(6) "Street barker" means any peddler who does business during recognized festival or parade days in the city and who limits his business to selling or offering to sell novelty items and similar goods in the area of the festival or parade. (Ord. #2002-326, April 2002)

¹State law references

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

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

9-302. Exemptions. The terms of this chapter shall neither apply to persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to persons selling agricultural products, who, in fact, themselves produced the products being sold. (Ord. #2002-326, April 2002)

9-303. Permit required. No person, firm or corporation shall operate a business as a peddler, transient vendor, solicitor or street barker, and no solicitor for charitable or religious purposes or solicitor for subscriptions shall solicit within the city unless the same has obtained a permit from the city in accordance with the provisions of this chapter. (Ord. #2002-326, April 2002)

9-304. Permit procedure. (1) Application form. A sworn application containing the following information shall be completed and filed with the city recorder by each applicant for a permit as a peddler, transient vendor, solicitor, or street barker and by each applicant for a permit as a solicitor for charitable or religious purposes or as a solicitor for subscriptions:

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

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

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

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

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

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

(2) Permit fee. Each applicant for a permit as a peddler, transient vendor, solicitor or street barker shall submit with his application a nonrefundable fee of twenty dollars (\$20.00). There shall be no fee for an application for a permit as a solicitor for 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 city recorder, the city recorder shall submit to the chief of police a copy of the application form and the permit.

9-305. Restrictions on peddlers, street barkers and solicitors. No peddler, street barker, solicitor, solicitor for charitable purposes, or solicitor for subscriptions shall:

- (1) Be permitted to set up and operate a booth or stand on any street or sidewalk, or in any other public area within the city.
 - (2) Stand or sit in or near the entrance to any dwelling or place of business, or in any other place which may disrupt or impede pedestrian or vehicular traffic.
 - (3) Offer to sell goods or services or solicit in vehicular traffic lanes, or operate a "road block" of any kind.
 - (4) Call attention to his business or merchandise or to his solicitation efforts by crying out, by blowing a horn, by ringing a bell, or creating other noise, except that the street barker shall be allowed to cry out to call attention to his business or merchandise during recognized parade or festival days of the city.
 - (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.
- (Ord. #2002-326, April 2002)

9-306. 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. (Ord. #2002-326, April 2002)

9-307. Display of permit. Each peddler, street barker, solicitor, solicitor for charitable purposes or solicitor for subscriptions is required to have in his possession a valid permit while making sales or solicitations, and shall be required to display the same to any police officer upon demand. (Ord. #2002-326, April 2002)

9-308. 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 city 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 city 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. (Ord. #2002-326, April 2002)

9-309. Expiration and renewal of permit. The permit of peddlers, solicitors and transient vendors shall expire on the same date that the permit holder's privilege license expires. The registration of any peddler, solicitor, or transient vendor who for any reason is not subject to the privilege tax shall be issued for six (6) months. The permit of street barkers shall be for a period corresponding to the dates of the recognized parade or festival days of the city. The permit of solicitors for religious or charitable purposes and solicitors for subscriptions shall expire on the date provided in the permit, not to exceed thirty (30) days. (Ord. #2002-326, April 2002)

9-310. Violation and penalty. In addition to any other action the city may take against a permit holder in violation of this chapter, such violation shall be punishable by a penalty of up to fifty dollars (\$50.00) for each offense. Each day a violation occurs shall constitute a separate offense. (Ord. #2002-326, April 2002)

TITLE 10

ANIMAL CONTROL

CHAPTER

1. MISCELLANEOUS.

CHAPTER 1

MISCELLANEOUS

SECTION

10-101. Removal of dog excrement on public or private property.

10-101. Removal of dog excrement on public or private property.

(1) It shall be unlawful for any person to fail to promptly remove and dispose of, in a sanitary manner, feces or excrement left by a dog owned by or under the control of that person on public property or private property in the City of Berry Hill not owned by the person, unless the property owner has previously authorized same.

(2) Definitions. (a) "Promptly" shall mean at the earliest possible time following the feces being deposited and shall mean, whenever possible absent an emergency, prior to the time the dog and owner leave the location.

(b) "Owned by" or "under the control of" shall mean any person or persons having charge, care, custody or control of any dog and shall include any person or persons that feed and give shelter to a dog on a continuing basis without regard to actual ownership being established.

(3) Penalty. A violation of this section shall be punishable by a fine up to fifty dollars (\$50.00). (Ord. #2002-324, Feb. 2002)

TITLE 11

MUNICIPAL OFFENSES¹

CHAPTER

1. MISDEMEANORS OF THE STATE ADOPTED.
2. ALCOHOL.
3. OFFENSES AGAINST THE PEACE AND QUIET.
4. INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL.
5. FIREARMS, WEAPONS AND MISSILES.
6. TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC.
7. MISCELLANEOUS.
8. OBSCENITY, MORALS.
9. LOITERING, ETC.
10. GAMBLING.

CHAPTER 1

MISDEMEANORS OF THE STATE ADOPTED

SECTION

11-101. Misdemeanors of the state adopted.

11-101. Misdemeanors of the state adopted. All offenses against the State of Tennessee which are committed within the corporate limits and which are defined by the state law or are recognized by the common law to be misdemeanors are hereby designated and declared to be offenses against this municipality also. Any violation of any such law within the corporate limits is also a violation of this section. (1986 Code, § 10-101)

¹Municipal code references

Housing code: title 12, chapter 3.

Fireworks: title 7.

Traffic offenses: title 15.

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

CHAPTER 2**ALCOHOL**¹**SECTION**

11-201. Drinking beer, etc., on streets, etc.

11-202. Minors in beer places.

11-201. Drinking beer, etc., on streets, etc. It shall be unlawful for any person to drink or consume, or have an open 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 unless the place has an appropriate permit and/or license for on premises consumption. (1986 Code, § 10-229)

11-202. Minors in beer places. No person under eighteen (18) years of age shall loiter in or around, work in, or otherwise frequent any place where beer is sold at retail for consumption on the premises. (1986 Code, § 10-222)

¹Municipal code reference

Sale of alcoholic beverages, including beer: title 8.

State law reference

See Tennessee Code Annotated § 33-8-203 (Arrest for Public Intoxication, cities may not pass separate legislation).

CHAPTER 3

OFFENSES AGAINST THE PEACE AND QUIET

SECTION

11-301. Disturbing the peace.

11-302. Anti-noise regulations.

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. (1986 Code, § 10-202)

11-302. Anti-noise regulations. It is unlawful to create, emit or cause to be emitted any excessive, loud and disturbing noise. The following shall be prima facie evidence of excessive, loud and disturbing noise:

(1) The use of any musical instrument, radio set, television set, phonograph, victrola or other instrument, machine or device for amplifying, producing or reproducing sound, in such manner as to disturb the peace and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing of the persons who are in the room, chamber or in the vicinity in which such instrument, machine or device is operated and who are voluntary listeners thereto. The operation of any such instrument, machine or device between the hours of 9:00 P.M. and 7:00 A.M. in such a manner as to be plainly audible at a distance of fifty (50) feet or more from the building or structure in which it is located shall be prima facie a violation of this section.

(2) Any noise created for the entertainment, enjoyment or benefit of the creator or their guests shall be presumed to be excessive, loud and disturbing if any of the following apply:

(a) The noise is clearly audible for a distance of 50 feet or more from the property line from which the noise emanates, or

(b) The noise is clearly audible by a passenger of a motor vehicle, other than a vehicle from which the noise may come, on a public street or thoroughfare with the doors and windows of the vehicle closed; or

(c) The noise occurs between the hours of 9:00 P.M. and 7:00 A.M. and can be heard more than thirty (30) feet beyond the property line from which the noise emanates; or

(d) In the event noise measuring devices or equipment are available, or become available, to measure the noise as against the

ambient background noise, and the noise exceeds the ambient background noise by 15 decibels at any time between 9:00 P.M. and 7:00 A.M. or the noise is 25 decibels louder than the ambient background noise at any hour without regard to cause. Measurements of noise and ambient background noise shall be made at the property line unless other persons using the same property are complaining about the noise in which case the measurement shall be from the source of the noise. The use of measuring devices may be used as a supplement to other evidence or as evidence of a violation but is not required for the establishment of a violation. This section is not intended to be exclusive of any other section or provision of this chapter and use of a measuring device or equipment, when used, may be supplemental and does not preclude establishing a violation of other sections or through other evidence.

(3) Noise created in vehicles, including a radio, tape or disk player, or by a device or devices on the vehicle or from the vehicle, other than vehicle horns, if the noise is audible at a distance of twenty-five (25) feet or more from the vehicle.

(4) Racing or revving the engine of any motor, engine, automobile, motorcycle, machine or mechanical device unless enclosed within a sound insulated structure so as to prevent noise and sound from being plainly audible within ten feet (10') of any residence in a residential zone.

(5) The sustained operation or use between the hours of 9:00 P.M. and 7:00 A.M. of any electric or gasoline powered motor or engine or the repair, modification, reconstruction, testing or operation of any automobile, motorcycle, machine or mechanical device or other contrivance or facility unless such motor, engine, automobile, motorcycle, machine or mechanical device is enclosed within a sound insulated structure so as to prevent noise and sound from being plainly audible at a distance of fifty feet (50') from such structure, or within ten feet (10') of any residence.

(6) Vehicle horn blown when the vehicle or operator is not in immediate danger or when not used to warn or signal immediate and/or eminent danger.

(7) Noise made to attract attention to an event or sale which is audible 50 feet or more from the source or which exceeds the ambient background noise by 15 decibels.

(8) Persistent barking of a dog or other animal sounds which are audible 50 feet or more from the source or which exceeds the ambient background noise by 15 decibels. Dog barking or any other animal sounds which are 15 decibels louder than the ambient background noise shall be presumed to be unreasonable and disturbing if it is created between 9:00 P.M. and 7:00 A.M.

(9) Exterior construction using hammers, power tools or motor driven equipment between the hours of 9:00 P.M. and 7:00 A.M.

(10) Lawnmowers, bush clearing equipment, blowers, and other equipment used for cleaning or maintenance shall be exempted from this section if the equipment meets the following provisions:

(a) The equipment is being operated and used for the purpose for which it was intended.

(b) The equipment is being operated with the use of all sound dampening devices which meet or exceed original equipment.

(c) The equipment is being used between the hours of 7:00 A.M. and 9:00 P.M.

(d) The equipment is used for the limited time required to accomplish the particular work or job activity.

(11) A violation of this chapter shall be punishable by a fine not to exceed five hundred dollars (\$500.00), unless restricted to a lesser amount pursuant to state law, plus costs for each separate violation. (Ord. #98-299, July 1998, as amended by Ord. #2000-313, Oct. 2000, and Ord. #2007-364, Aug. 2007)

CHAPTER 4

INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL

SECTION

11-401. Impersonating a government officer or employee.

11-402. False emergency alarms.

11-403. Escape from custody or confinement.

11-404. Resisting or interfering with city personnel.

11-401. Impersonating a government officer or employee. No person other than an official police officer of the municipality shall wear the uniform, apparel, or badge, or carry any identification card or other insignia of office like or similar to, or a colorable imitation of that adopted and worn or carried by the official police officers of the municipality. Furthermore, no person shall deceitfully impersonate or represent that he is any government officer or employee. (1986 Code, § 10-211)

11-402. False emergency alarms. It shall be unlawful for any person intentionally to make, turn in, or give a false alarm of fire, or of need for police or ambulance assistance, or to aid or abet in the commission of such act. (1986 Code, § 10-217)

11-403. Escape from custody or confinement. It shall be unlawful for any person under arrest or otherwise in custody of or confined by the municipality to escape or attempt to escape, or for any other person to assist or encourage such person to escape or attempt to escape from such custody or confinement. (1986 Code, § 10-209)

11-404. Resisting or interfering with city personnel. It shall be unlawful for any person knowingly to resist or in any way interfere with or attempt to interfere with any officer or employee of the municipality while such officer or employee is performing or attempting to perform his municipal duties. (1986 Code, § 10-210)

CHAPTER 5

FIREARMS, WEAPONS AND MISSILES

SECTION

11-501. Air rifles, etc.

11-502. Throwing of missiles.

11-503. Weapons and firearms generally.

11-501. Air rifles, etc. It shall be unlawful for any person in the municipality to discharge any air gun, air pistol, air rifle, "BB" gun, or sling shot capable of discharging a metal bullet or pellet, whether propelled by spring, compressed air, expanding gas, explosive, or other force-producing means or method. (1986 Code, § 10-213)

11-502. Throwing of missiles. It shall be unlawful for any person maliciously to throw any stone, snowball, bottle, or any other missile upon or at any vehicle, building, tree, or other public or private property or upon or at any person. (1986 Code, § 10-214)

11-503. Weapons and firearms generally. It shall be unlawful for any person to carry in any manner whatever, with the intent to go armed, any razor, dirk, knife, blackjack, brass knucks, pistol, revolver, or any other dangerous weapon or instrument except the army or navy pistol which shall be carried openly in the hand. However, the foregoing prohibition shall not apply to members of the United States Armed Forces carrying such weapons as are prescribed by applicable regulations nor to any officer or policeman engaged in his official duties, in the execution of process, or while searching for or engaged in arresting persons suspected of having committed crimes. Furthermore, the prohibition shall not apply to persons who may have been summoned by such officer or policeman to assist in the discharge of his said duties, nor to any conductor of any passenger or freight train of any steam railroad while he is on duty. It shall also be unlawful for any unauthorized person to discharge a firearm within the municipality. (1986 Code, § 10-212)

CHAPTER 6

**TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE
WITH TRAFFIC**

SECTION

- 11-601. Trespassing.
- 11-602. Trespassing on trains.
- 11-603. Malicious mischief.
- 11-604. Interference with traffic.

11-601. Trespassing. The owner or person in charge of any lot or parcel of land or any building or other structure within the corporate limits may post the same against trespassers. It shall be unlawful for any person to go upon any such posted lot or parcel of land or into any such posted building or other structure without the consent of the owner or person in charge.

It shall be unlawful and deemed to be a trespass for any peddler, canvasser, solicitor, transient merchant, or other person to fail to leave promptly the private premises of any person who requests or directs him to leave. (1986 Code, § 10-226)

11-602. Trespassing on trains. It shall be unlawful for any person to climb, jump, step, stand upon, or cling to, or in any other way attach himself to any locomotive engine or railroad car unless he works for the railroad corporation and is acting the scope of his employment or unless he is a lawful passenger or is otherwise lawfully entitled to be on such vehicle. (1986 Code, § 10-221)

11-603. Malicious mischief. It shall be unlawful and deemed to be malicious mischief for any person willfully, maliciously, or wantonly to damage, deface, destroy, conceal, tamper with, remove, or withhold real or personal property which does not belong to him. (1986 Code, § 10-225)

11-604. Interference with traffic. It shall be unlawful for any person to stand, sit, or engage in any activity whatever on any public street, sidewalk, bridge, or public ground in such a manner as to prevent, obstruct, or interfere unreasonably with the free passage of pedestrian or vehicular traffic thereon. (1986 Code, § 10-232)

CHAPTER 7

MISCELLANEOUS¹

SECTION

11-701. Abandoned refrigerators, etc.

11-702. Caves, wells, cisterns, etc.

11-703. Posting notices, etc.

11-704. Curfew for minors.

11-705. Wearing masks.

11-706. Assault and battery.

11-701. Abandoned refrigerators, etc. It shall be unlawful for any person to leave in any place accessible to children any abandoned, unattended, unused, or discarded refrigerator, icebox, or other container with any type latching or locking door without first removing therefrom the latch, lock, or door. (1986 Code, § 10-223)

11-702. 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. (1986 Code, § 10-231)

11-703. Posting notices, etc. No person shall fasten, in any way, any show-card, poster, or other advertising device upon any public or private property unless legally authorized to do so. (1986 Code, § 10-227)

11-704. Curfew for minors. It shall be unlawful for any minor, under the age of eighteen (18) years, to be abroad at night between 11:00 P.M. and 5:00 A.M. unless going directly to or from a lawful activity or upon a legitimate errand for, or accompanied by, a parent, guardian, or other adult person having lawful custody of such minor. (1986 Code, § 10-224)

11-705. Wearing masks. It shall be unlawful for any person to appear on or in any public way or place while wearing any mask, device, or hood whereby any portion of the face is so hidden or covered as to conceal the identity of the wearer. The following are exempted from the provisions of this section:

- (1) Children under the age of ten (10) years.

¹Municipal code reference

Removal of dog excrement: § 10-101.

(2) Workers while engaged in work wherein a face covering is necessary for health and/or safety reasons.

(3) Persons wearing gas masks in civil defense drills and exercises or emergencies.

(4) Any person having a special permit issued by the city recorder to wear a traditional holiday costume. (1986 Code, § 10-235)

11-706. Assault and battery. It shall be unlawful for any person to commit an assault and battery upon any person. (1986 Code, § 10-201)

CHAPTER 8

OBSCENITY, MORALS

SECTION

11-801. Disorderly houses.

11-802. Immoral conduct.

11-803. Indecent or improper exposure or dress.

11-804. Window peeping.

11-801. Disorderly houses. It shall be unlawful for any person to keep a disorderly house or house of ill fame for the purpose of prostitution or lewdness or where drunkenness, quarrelling, fighting, or other breaches of the peace are carried on or permitted to the disturbance of others. Furthermore, it shall be unlawful for any person to knowingly visit any such house for the purpose of engaging in such activities. (1986 Code, § 10-203)

11-802. Immoral conduct. No person shall commit, offer, or agree to commit, nor shall any person secure or offer another for the purpose of committing, a lewd or adulterous act or an act of prostitution or moral perversion; nor shall any person knowingly transport or direct or offer to transport or direct any person to any place or building for the purpose of committing any lewd act or act of prostitution or moral perversion; nor shall any person knowingly receive, or offer or agree to receive any person into any place or building for the purpose of performing a lewd act, or an act of prostitution or moral perversion, or knowingly permit any person to remain in anyplace or building for any such purpose. (1986 Code, § 10-204)

11-803. Indecent or improper exposure or dress. It shall be unlawful for any person to publicly appear naked or in any dress not appropriate to his or her sex, or in any indecent or lewd dress, or to otherwise make any indecent exposure of his or her person. (1986 Code, § 10-206)

11-804. Window peeping. No person shall spy, peer, or peep into any window of any residence or dwelling premise that he does not occupy nor shall he loiter around or within view of any such window with the intent of watching or looking through it. (1986 Code, § 10-207)

CHAPTER 9**LOITERING, ETC.****SECTION**

11-901. Loitering.

11-902. Prowling.

11-901. Loitering. It shall be unlawful for any person without legitimate business or purpose to loaf, loiter, wander, or idle in, upon, or about any way or place customarily open to public use. (1986 Code, § 10-218)

11-902. Prowling. It shall be unlawful for any person to prowl or wander about the streets, alleys, or other public or private ways or places, or be found abroad at night between the hours of midnight and 6:00 A.M. without any visible or lawful business and when unable to give a satisfactory account of himself. (1986 Code, § 10-219)

CHAPTER 10**GAMBLING****SECTION**

11-1001. Gambling.

11-1002. Promotion of gambling.

11-1001. Gambling. It shall be unlawful for any person to play at any game of hazard or chance for money or other valuable thing or to make or accept any bet or wager for money or other valuable thing. (1986 Code, § 10-215)

11-1002. Promotion of gambling. It shall be unlawful for any person to encourage, promote, aid, or assist the playing at any game, or the making of any bet or wager, for money or other valuable thing, or to possess, keep, or exhibit for the purpose of gambling, any gaming table, device, ticket, or any other gambling paraphernalia. (1986 Code, § 10-216)

TITLE 12

BUILDING, UTILITY, ETC. CODES

CHAPTER

1. BUILDING CODE.
2. BOARD OF BUILDING CODE APPEALS.
3. HOUSING CODE.

CHAPTER 1

BUILDING CODE¹

SECTION

- 12-101. Purpose.
- 12-102. Applicability.
- 12-103. Maintenance of buildings and required equipment, devices, etc.
- 12-104. Department of building inspection, director of building inspection, restrictions of employees; records.
- 12-105. Right of entry of director of building inspections; and of his authorized agent.
- 12-106. Employees, etc., not personally liable for damages.
- 12-107. Stop work orders.
- 12-108. Revocation of permits or approval.
- 12-109. Requirements not covered.
- 12-110. Alternate materials and methods of construction.
- 12-111. Tests as proof of compliance.
- 12-112. Director of building inspection to issue permits and notices, records of same.
- 12-113. Records of permit fees and other money collected.
- 12-114. Inspection and certificate of occupancy prerequisite to furnishing of utility services.
- 12-115. Conflicts with other ordinances, etc.
- 12-116. Workmanship.
- 12-117. Removal or demolition of buildings.
- 12-118. Fences.

¹Municipal code references

Fireworks: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

- 12-119. Adoption of International Building Code and International Residential Code for one- and two-family dwellings.
- 12-120. Building permits.
- 12-121. Inspections.
- 12-122. Certificates of occupancy.
- 12-123. Floor loads.
- 12-124. Unsafe buildings.
- 12-125. Existing buildings.
- 12-126. Violations.

12-101. Purpose. This chapter is hereby declared to be remedial, and shall be construed to secure the beneficial interests and purposes thereof, which are public safety, health and general welfare, through structural strength, stability, sanitation, adequate light and ventilation and safety to life and property from fire and other hazards incident to the construction, alteration, repair, removal, demolition, use and occupancy of buildings, structures or premises. (Ord. #73-167, April 1974)

12-102. Applicability. (1) The provisions of this chapter shall apply to the construction, alteration, repair, maintenance, moving, removal and demolition, and to the location, use and occupancy, of every building or structure or part thereof, and to any appurtenances or equipment connected or attached thereto, and to the installation of any heating, air conditioning or ventilating system or unit, the construction and erection of any fence, sign, billboard, swimming pool or similar structure for all of which a permit is required, within the area of jurisdiction of the City of Berry Hill.

A permit shall also be required for any utility construction such as gas, telephone, television cable, electric, water or sewerage where such construction alters the pavement or drainage of streets maintained by the City of Berry Hill, but the fees set forth in this chapter are not required for such utility construction.

(2) No provision of this chapter shall be held to deprive any federal or state agency, of any power or authority which it had on the effective date of this chapter, or of any remedy then existing for the enforcement of its orders, nor shall it deprive any individual or corporation of its legal rights as provided by law. (Ord. #73-167, April 1974; as amended by Ord. #97-288, July 1997)

12-103. Maintenance of buildings and required equipment, devices, etc. All buildings and structures, both existing and new, all devices, equipment and safeguards required by this chapter in a building when it is erected, altered or repaired, shall be maintained in good working order by the owner or his designated agent. (Ord. #73-167, April 1974)

12-104. Department of building inspection; director of building inspection; restrictions of employees; records. (1) There is hereby established a department to be called the Department of Building Inspection of the City of Berry Hill, which shall be under the direction of the director of building inspection.

(2) The director of building inspection shall have had at least ten years experience as an architect, engineer, building inspector, building contractor or superintendent of building construction, for five years of which he shall have been in responsible charge of work. He shall be appointed by the mayor, with the approval of the Board of Commissioners of the City of Berry Hill. His appointment shall continue during good behavior and satisfactory service. He shall not be removed from office except for cause, after full opportunity has been given him to be heard on specific charges before the board of commissioners.

(3) The director of building inspection may designate as his deputy an employee of the City of Berry Hill who shall, during the absence or disability of the director, exercise all the powers of the director. (Ord. #73-167, April 1974)

12-105. Right of entry of director of building inspections and of his authorized agent. The director of building inspection shall enforce the provisions of this chapter, and he or his duly authorized agent may enter, with the consent of the owner or occupant or with a valid search warrant, and upon presentation of proper identification, any building, structure or premises within the area or jurisdiction of the City of Berry Hill to perform any duty or responsibility imposed upon him by this chapter. (Ord. #73-167, April 1974)

12-106. Employees , etc., not personally liable for damage. Any officer or employees of the City of Berry Hill or member of the board of building code appeals or board of commissioners, charged with the enforcement of this chapter, acting for or on behalf of the City of Berry Hill in the discharge of his duties, shall not thereby render himself liable personally, and is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties. Any suit brought against any such officer or employee or member of the board because of such act performed by him in the discharge of his prescribed duties and responsibilities in the enforcement of any of the provisions of this chapter shall be defended by the City of Berry Hill until the final termination of such suit. (Ord. #73-167, April 1974)

12-107. Stop work orders. Upon notice from the director of building inspection that work on any building or structure is being done contrary to the provisions of this chapter or in a dangerous or unsafe manner, such work shall be immediately stopped. Such notice shall be in writing and shall be given to

the owner of the property or to his agent or to the person doing the work, and shall state the conditions under which work may be resumed. When an emergency exists, no written notice shall be required to be given by the director.

Such notice as required may be in the form of a placard posted by the inspector conspicuously on the building in which the work is in progress. Removal of such notice or placard without the express consent of the director of building inspection is a violation of this chapter. (Ord. #73-167, April 1974)

12-108. Revocation of permits or approval. The director of building inspection may revoke a permit or approval issued under this chapter in case there has been any false statement or misrepresentation as to a material fact in the application or plans on which such permit or approval was based. (Ord. #73-167, April 1974)

12-109. Requirements not covered. Any requirements necessary for the strength or stability of an existing or proposed building or structure or for the safety of the occupants thereof, not specifically covered by this chapter, shall be determined by the director of building inspection, subject to appeal to the board of building code appeals. (Ord. #73-167, April 1974)

12-110. Alternate materials and methods of construction. The provisions of this chapter are not intended to prevent the use of any material, or method of construction not specifically prescribed by this chapter; provided such alternate has been approved and its use authorized in writing by the director of building inspection. The director shall approve any such alternate, provided he finds that the proposed design is satisfactory and complies with the provisions of this chapter and that the material, method of work offered is, for the purpose intended, the equivalent of that prescribed in this chapter in quality, strength, effectiveness, fire-resistance, durability and safety. The director shall require that sufficient evidence or proof be submitted to substantiate any claim that may be made regarding its proposed use. If, in the opinion of the director, the evidence and proof submitted are not sufficient to justify approval, the applicant may appeal to the board of building code appeals in the manner prescribed by this chapter. (Ord. #73-167, April 1974)

12-111. Tests as proof of compliance. The director of building inspection may require tests or test reports as proof of compliance with this chapter. Tests, if required, shall be made at the expense of the owner or agent, by an approved testing laboratory or agency. Copies of such test reports and the results of all such tests shall be kept on file in the office of the director of building inspection. (Ord. #73-167, April 1974)

12-112. Director of building inspection to issue permits and notices, records of same. The director of building inspection shall issue or cause to be issued, all permits and notices required by this chapter and shall keep or cause to be kept a record of all such permits and notices and all other business transactions of the department of building inspection. Such records of the department shall be open to public inspection during the regular business hours of said office. (Ord. #73-167, April 1974)

12-113. Records of permit fees and other money collected. The director of building inspection shall keep a permanent and accurate accounting of all permit fees and other money collected, the names of all persons upon whose account the same was paid and the date and amount thereof. (Ord. #73-167, April 1974)

12-114. Inspection and certificate of occupancy prerequisite to furnishing of utility services. To secure compliance with this chapter, the City of Berry Hill shall not provide, nor permit another to provide, utility services (such as water, gas, sewer or electricity), either public or private, to any building or structure found in noncompliance with this chapter, until such building or structure has been inspected and brought into compliance with this chapter and a valid certificate of occupancy has been issued. This requirement shall not, however, preclude the temporary use of such utility services as may be necessary during construction, repair or alteration of a building or structure, provided such temporary use has been approved by the director of building inspection and a temporary certificate of occupancy has been issued. (Ord. #73-167, April 1974)

12-115. Conflicts with other ordinances, etc. In any case where a provision of this chapter is found to be in conflict with a provision of any zoning, housing, fire, safety or health ordinance or code of the City of Berry Hill, the provision which establishes the higher standard for the promotion and protection of the health and safety of the public shall prevail.

Where a provision of this chapter is found to be in conflict with a provision of any other ordinance or code of the City of Berry Hill which establishes a lower standard for the promotion and protection of the health and safety of the public, the provision of this chapter shall be deemed to prevail, and such other ordinances or codes are hereby declared to be amended to the extent that they may be found in conflict with this chapter. (Ord. #73-167, April 1974)

12-116. Workmanship. During all phases of construction and specifically upon the final inspection, all construction performed under the jurisdiction of this chapter shall be completed to conform to first class,

conventional construction standards with respect to appearance and function. Materials incorporated into construction shall conform to the material standards specified in this chapter and shall be fabricated and installed by craftsmen proficient in such construction. (Ord. #73-167, April 1974)

12-117. Removal or demolition of buildings. Every person within 30 days after issuance of a building permit to undertake the moving, repairing or demolishing a building or structure and removing debris therefrom shall cause all such debris to be thoroughly dampened with water or covered to prevent the spread of such debris or dust to adjacent properties or streets. In the case of demolition, it shall be the responsibility of the person demolishing a building or structure to remove from the premises all debris resulting from such demolition and to fill any below grade area to grade level. The director may, at his discretion, allow suitable protective fencing around the below grade area in lieu of the full requirement. (Ord. #73-167, April 1974)

12-118. Fences. Fences shall not be erected to a height in excess of six feet; except, that temporary construction fences and barricades permitted or required under this chapter may be erected to any height approved by the director of building inspection. The use of barbed wire, below six feet on any fence or along any street, or boundary line or on any common property line, is prohibited, except when approved in writing by the director of building inspection prior to the erection of such a fence.

Electric fences are prohibited within the City of Berry Hill unless use thereof is approved in writing by the director of building inspection prior to the erection of such a fence.

No metal fence permitted under the provisions of this chapter shall be erected with barbs or sharp projections on top of such fence unless such fence is located five feet or more from a public right of way or common property line or is erected six feet above the adjacent ground. (Ord. #73-167, April 1974)

12-119. Adoption of International Building Code and International Residential Code for one- and two-family dwellings. A certain document, a copy of which is on file in the office of the Recorder of the City of Berry Hill, being marked and designated as the 2006 International Building Code,¹ excluding any appendix chapters, as published by the International Code Council, is hereby adopted as the building code of the City of Berry Hill, Tennessee, for the control of buildings and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions

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

and terms of said building code are hereby referred to, adopted, and made a part hereof, as if fully set out in this section.

A certain document, a copy of which is on file in the office of the Recorder of the City of Berry Hill, being marked and designated as the International Residential Code,¹ 2006 edition, excluding any appendix chapters, as published by the International Code Council, is hereby adopted as the code of the City of Berry Hill, Tennessee, for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of one- and two-family dwellings and townhouses not more than three stories in height in the City of Berry Hill, and providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions and terms of such residential code are hereby referred to, adopted, and made a part hereof, as if fully set out in this section. (Ord. #95-271, Sept. 1995, as amended by Ord. #2000-315, Nov. 2000, replaced by Ord. #2004-349, Nov. 2004, and amended by Ord. #2007-365, Aug. 2007)

12-120. Building permits. Building permits shall be required for the following:

(1) It shall be the duty of every person, every occupant or owner, desiring to construct, alter, repair, enlarge, move or demolish any building or structure or part thereof or any appurtenances connected or attached thereto, or to install any heating, air conditioning or ventilating system or unit or any equipment, device, appliance or fixture, required or governed by this chapter, or to repair or replace any damage to a building or structure caused by termites, or to erect or construct any fence, sign, billboard or similar structure governed by this chapter, or to do or cause any other such work set out herein above or elsewhere in this chapter, to first, before commencing such work, make application to the director of building inspection and obtain the required permits therefor.

(2) Permit required for drilling or blasting rock, earth, etc.; hours when blasting permitted; warnings before blasting; insurance requirements. It shall be unlawful for any person to perform any drilling or blasting of rock, earth, trees, etc., with any form of explosives, without first having obtained a permit for such work from the director of building inspection. All such blasting as may be permitted shall be performed between the hours of 6:00 A.M. and 6:00 P.M. and, shall be properly covered or barricaded prior to the execution of the blasting operation.

It shall be the responsibility of the person engaged in any blasting activity to give proper notice and warning to all property owners, pedestrians and motor vehicle traffic in the area where such blasting is to be made, prior to detonation of such blast.

An applicant for a blasting permit must be experienced and qualified in the handling and discharge of explosives and blasting agents, must be eighteen years of age or over and must furnish all necessary information concerning the

amount of the charge and the location. The minimum public liability insurance as required by § 12-119(11) shall be \$100,000/\$300,000 bodily injury and \$50,000 property damage.

(3) Permit not required for normal maintenance repairs. Normal maintenance repairs of an existing building or structure may be made without a permit, provided such repairs do not violate any provisions of this chapter. In addition to those things set out in § 12-119(13)(a)(i), the following shall be deemed as normal maintenance: installation of vinyl, aluminum, or other fascia on existing building or structure; replacement of existing windows and or doors; replacement of existing heat and air conditioning systems; remodeling of existing kitchen or bath without making structural changes and costing less than \$4,000.00; repairing sun decks, patios or swimming pools; installation of fences and or landscaping; replacement of floor coverings; paving, rocking, or concreting driveways.

(4) Form of application. (a) Each application for a permit required by this section, with the required fee, shall be filed with the director of building inspection on a form furnished by him, and shall contain a general description of the proposed work and its location. The application shall be signed by the owner or his authorized agent.

(b) Each application for a permit shall indicate the proposed occupancy of all parts of the building and of that portion of the site or lot, if any, not covered by the building or structure, and shall contain such other information as may be required by the director.

(5) Drawings and specifications. (a) When required by the director of building inspection, two or more copies of specifications and of drawings drawn to scale with sufficient clarity and detail to indicate the nature and character of the work shall accompany every application for a permit. Such drawings and specifications shall contain information in the form of notes or otherwise, as to the quality of materials where quality is essential to conformity with this chapter. Such information shall be specific, and this chapter shall not be cited as a whole or in part, nor shall the term "legal" or its equivalent be used, as a substitute for specific information.

(b) The director may require details, computations, stress diagrams and other data necessary to describe the construction and basis of calculations and they shall bear the signature of the person responsible for the design.

(c) All drawings, specifications or accompanying data shall bear the name and address of the designer. In the case of buildings or structures of Group C occupancy (except one and two-story private schools, academies and day care homes), Group D occupancy and Group E occupancy (except those designed for three hundred or fewer persons), and other buildings exceeding two stories in height (except one and two-family dwellings and excepting buildings otherwise exempt), such

designer shall be an architect or engineer legally registered under the laws of the state regulating the practice of architecture or engineering, and he shall affix his official seal to such drawings, specifications and accompanying data. The director shall not require of such nonregistered persons, mechanics, or builders, drawings or specifications in more detail than the minimum required to ascertain compliance with the applicable code. Inspections resulting in disapproval shall state any requirements necessary for approval.

(6) Pilot diagram. The director of building inspection shall require drawings showing the location of the proposed building or structure and of every existing building or structure on the site or lot. He may also require a boundary line survey, if necessary, prepared by a qualified surveyor.

(7) When application deemed abandoned. An application for a permit for any proposed work shall be deemed to have been abandoned six months after the date of filing, unless before then a permit shall have been issued; provided, that for cause, one or more extensions of time for periods of not exceeding ninety days each may be allowed by the director of building inspection.

(8) Action on application. The director of building inspection shall act upon an application for a permit under this section, with plans as filed or as amended, without unnecessary or unreasonable delay.

(9) Examination of applications. (a) The director of building inspection shall examine each application for permit and the drawings and computations filed therewith and shall ascertain by such examinations whether the construction indicated and described is in accordance with the requirements of this chapter and all other pertinent laws or ordinances.

(b) The director of building inspection may accept a sworn affidavit from a registered architect or engineer stating that the plans submitted conform to the laws as to egress, type of construction and general arrangement, and if accompanied by drawings showing the structural design and by a statement that the plans and design conform to the requirements of this chapter as to strength, stresses, strains, loads and stability, he may without any examination or inspection accept such affidavit, provided the architect or engineer who made such affidavit agree to submit to the director, on the completion of the structure, a certification that the structure has been erected in accordance with the requirements of this chapter. Where the director relies upon such affidavit, the architect or engineer shall assume full responsibility for the compliance with all provisions of this chapter and other pertinent laws or ordinances. Architects and engineers hereinabove referred to shall be registered under the laws of this state regulating the practice of architecture and engineering.

(10) Approval to be indicated on drawings; drawings to be kept at site. When the director of building inspection issues a permit, he shall endorse, in

writing or by stamp, both sets of plans "approved." One set of drawings so approved shall be retained by the director and the other set shall be returned to the applicant. The approved drawings shall be kept at the site of work and shall be open to inspection by the director or his authorized representative.

(11) Public liability insurance may be required as condition precedent to issuance. Nothing in this chapter shall be construed as prohibiting the director of building inspection, as conditions may seem to warrant, from requiring a certificate of public liability insurance for such amount as he may deem necessary with corporate surety approved by the City Attorney of the City of Berry Hill, as a condition precedent to the issuance of any permit required by this chapter. Such insurance as may be required shall not be cancelled without at least thirty days prior notice, in writing, to the director of building inspection.

(12) Encroachment on street lines. No permit shall be granted for the construction of any building or for the alteration of any building where such building is to be changed and such change will affect the exterior walls, bays, balconies or other appendages or projections fronting on any street, alley or public lane, or for the placing on any lot or premises, unless the applicant has made application at the office of the City Manager of the City of Berry Hill for the lines of the public street on which he proposes to build, erect or locate such building. It shall be the duty of the city manager or director of building inspection to see that the street lines are not encroached upon in any manner whatsoever, except as provided for in Chapter XXII of the Southern Standard Building Code.

(13) Fees--schedule. (a) Building permit fees.

TOTAL VALUATION	FEE
\$1,000 and less	No fee, unless inspection or plan review required, in which case a \$75.00 fee for each inspection or plan review shall be charged.
\$1,000 to \$50,000	The greater of: <ol style="list-style-type: none"> (i) \$15.00 for the first \$1,000, plus \$5.00 for each additional \$1,000 or fraction thereof; or (ii) \$75.00 for each inspection or plan review performed
\$50,000 to \$100,000	\$260.00 for the first \$50,000.00, plus \$4.00 for each additional \$1,000 or fraction thereof, plus \$75.00 for each inspection or plan review performed in excess of three.

\$100,000 to \$500,000	\$460.00 for the first \$100,000 plus \$3.00 for each additional \$1,000 or fraction thereof, plus \$75.00 for each inspection or plan review performed in excess of six.
over \$500,000	\$1,660.00 for the first \$500,000 plus \$2.00 for each additional \$1,000 or fraction thereof, plus \$75.00 for each inspection performed in excess of ten.

(b) Moving fee. For the moving of any building or structure, the fee shall be \$100.00.

(c) Demolition fee. For the demolition of any building or structure, the fee shall be:

0 to 100,000 cu ft	\$50.00
over 100,00 cu ft	\$.50/1,000 cu ft

(d) Penalties. Where work for which a permit is required is started or proceeded prior to obtaining said permit, the fees herein specified shall be doubled, but the payment of such double fee shall not relieve any persons from fully complying with the requirements of this code in the execution of the work nor from any other penalties prescribed herein.

(14) Same--doubled when work commences without permit. In addition to any other penalty imposed for failure to obtain a permit, where construction of any work, for which a permit is required, is commenced before a permit is issued, the permit fee shall be doubled.

(15) Same--valuations. If, in the opinion of the director of building inspection, the valuation of building, alteration or structure appears to be underestimated on the application, the permit shall be denied, unless the applicant can show detailed estimated cost to meet the approval of the director. Permit valuations shall include total cost, such as plumbing, electrical, mechanical equipment and other systems.

(16) Foundation permits. When application for a permit to erect or enlarge a building has been filed and pending issuance of such permit, the director of building inspection may, at his discretion, issue a special permit for the foundations of such building. The holder of such a special permit shall proceed at his own risk and without assurance that a permit for the superstructure will be granted.

(17) Issuance. If the director of building inspection is satisfied that the work described in an application for a permit and the drawings filed therewith conform to the requirements of this chapter and other pertinent laws and ordinances, he shall issue a permit therefor to the applicant.

(18) Denial of permit. If the application for a permit under this section and the drawings filed therewith describe work which does not conform to the requirements of this chapter or other pertinent laws or ordinances, the director of building inspection shall not issue a permit, but shall return the drawings to

the applicant with his refusal to issue such permit. Such refusal shall, when requested, be in writing and shall contain the reasons therefor.

(19) Posting on premises. Work requiring a building permit shall not be commenced until the permit holder or his agent shall have posted the building permit card in a conspicuous place on the front of the premises. The permit shall be protected from the weather and in such position as to permit the director of building inspection to conveniently make the required entries thereon. This permit card shall be maintained in such position by the permit holder until the certificate of occupancy required by this chapter has been issued by the director.

(20) Effect of permits; period within which work is to be commenced. A permit issued pursuant to this section shall be construed to be a license to proceed with the work and shall not be construed as authority to violate, cancel, alter or set aside any of the provisions of this chapter, nor shall such issuance of a permit prevent the director from thereafter requiring a correction of errors in plans or in construction or of violations of this chapter.

Any permit issued shall become invalid unless the work authorized by it shall have been commenced within six months after its issuance, or if the work authorized by such permit is suspended or abandoned for a period of one year after the time the work is commenced; provided, that, for cause, one or more extensions of time for periods not exceeding ninety days each, may be allowed in writing by the director.

In the case of a permit issued to demolish a building or structure, such demolition permit shall become invalid unless the work authorized by it shall have been commenced within thirty days after its issuance or unless the work so authorized shall have been completed within sixty days after work is commenced; provided, that extensions of time may be allowed as provided above.

(21) Supervision or work when permits issued upon affidavits. Whenever a permit is to be issued in reliance upon an affidavit as provided in § 12-119(9) or whenever the work to be covered by a permit involves construction under conditions which, in the opinion of the director of building inspection, are hazardous or complex, the director shall require that the architect or engineer who signed the affidavit or made the drawings or computations shall supervise such work, be responsible for its conformity with the approved drawings, and forthwith upon its completion make and file with the director written affidavit that the work has been done in conformity with the approved plans and with the structural provisions of this chapter. In the event such architect or engineer is not available, the owner shall comply in his stead a competent person or agency whose qualifications are approved by the director.

(22) Nontransferable. Permits issued under this chapter are not transferable from one job, site or location to another, and any refunds shall be made in accordance with § 12-119(16). This section shall not prohibit the correction or change of addresses or location made through error on the

application. (Ord. #73-167, April 1974, as amended by Ord. #97-288, July 1997; Ord. #2002-333, Oct. 2002; and Ord. #2004-350, Nov. 2004)

12-121. Inspections. (1) Authority of director of building inspection generally; acceptance of reports of reorganized inspection services.

(a) Before issuing a permit required by this chapter, the director of building inspection may examine or cause to be examined any building for which an application has been received for permit to enlarge, alter, repair, move, demolish or change the occupancy thereof. He shall inspect all buildings and structures, from time to time, during and upon completion of the work for which a permit was issued. He shall make a record of every such examination and inspection and of all violations of this chapter.

(b) When deemed necessary by the director of building inspection, he shall make an inspection of materials or assemblies at the point of manufacture or fabrication. He shall make a record of every such examination and inspection and all violations of this chapter.

(c) The director of building inspection may make or cause to be made the inspections called for by this chapter. He may accept reports of inspector of recognized inspection services; provided, that after investigation he is satisfied as to their qualifications and reliability. No certificate called for by any provision of this section shall be based on such reports unless the same are in writing and certified by a responsible officer of such service.

(2) Required; establishment of boundary lines. The director of building inspection shall inspect or cause to be inspected at various intervals all construction or work for which a permit is required, and a final inspection shall be made of every building or structure upon completion, prior to the issuance of the certificate of occupancy required by this chapter. Prior to the first inspection, the permittee shall establish the lot lines or boundary of the parcel by the placement of stakes or pins at each corner of the lot. Such markers are to remain in place during the construction.

(3) Concealment of reinforcing steel or structural framework. No reinforcing steel or structural framework of any part of any building or structure shall be covered or concealed in any manner whatsoever, without first obtaining the approval of the director of building inspection, the designing architect or engineer.

(4) Notice to director of building inspection prior to plastering. In all buildings where plaster is used for fire protection purposes, the permit holder or his agent shall notify the director of building inspection after all lathing and backing is in place. No plaster shall be applied until the approval of the director has been received. (Ord. #73-167, April 1974)

12-122. Certificate of occupancy. (1) Required for new buildings and changes of occupancy in existing buildings. No new building shall be occupied and no change in occupancy of a building or part of a building shall be made until after the director of building inspection shall have issued a certificate of occupancy therefor.

(2) Issuance; contents. Upon completion of a building erected in accordance with approved plans, and after the final inspection and upon application therefor, the director of building inspection shall issue a certificate of occupancy stating the nature of the occupancy permitted, the number of persons for each floor in accordance with the provisions of this chapter.

(3) Temporary certificates. A temporary certificate of occupancy may be issued for a portion or portions of a building which may safely be occupied prior to final completion of the building.

(4) Existing buildings. A certificate of occupancy for any existing building shall be obtained by applying to the director of building inspection and supplying the information and data necessary to determine compliance with this chapter for the occupancy intended. Where necessary, in the opinion of the director, two sets of detailed drawings or a general inspection or both may be required. When, upon examination and inspection, it is found that the building conforms to the provisions of this chapter for such occupancy, a certificate of occupancy shall be issued. (Ord. #73-167, April 1974)

12-123. Floor loads. (1) Occupancies in which safe loads would be exceeded prohibited. No existing or new building shall be occupied for any purpose which will cause the floors thereof to be loaded beyond their safe capacity. The director of building inspection may permit occupancy of a building for mercantile, commercial or industrial purposes, by a specific business, when he is satisfied that such capacity will not thereby be exceeded.

(2) Computation of safe loads. It shall be the responsibility of the owner, agent, proprietor or occupant of Group F and G occupancies of any occupancy where excessive floor loading is likely to occur to employ a competent architect or engineer in computing the safe load capacity. All such computations shall be accompanied by an affidavit from the architect or engineer stating the safe allowable floor load on each floor in pounds per square feet uniformly distributed. It shall thereupon be filed as a permanent record of the department of building inspections.

(3) Posting of safe loads in certain buildings. In every building or part of a building used for business storage, industrial or hazardous purposes, the safe floor loads, as approved by the director of building inspection, shall be marked on plates of approved design which shall be supplied and securely affixed by the owner of the building in conspicuous place in each story to which they relate. Such plates shall not be removed or defaced, and if lost, removed or defaced, shall be replaced by the owner of the building.

(4) Loads in excess of posted capacity. No owner shall place, or permit to be placed, on any floor of a building, a greater load than the safe load so determined and posted as provided in this section. (Ord. #73-167, April 1974)

12-124. Unsafe buildings. (1) Defined; same declared illegal. All buildings or structures which are unsafe, unsanitary, or not provided with adequate egress, or which constitute a fire hazard, or which are otherwise dangerous to human life and property, or which, in relation to existing use, constitute a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence or abandonment, are severally, in contemplation of this chapter, unsafe buildings. All such unsafe buildings or structures are hereby declared to be illegal and shall be abated by repair and rehabilitation or by demolition in accordance with the procedures set out in this section.

(2) Notice to repair, demolish, vacate, etc., unsafe buildings. Whenever the director of building inspection shall find any building or structure or portion thereof to be unsafe, as defined in this section, he shall, in accordance with established procedures for legal notice, give the owner, agent or person in control of such building or structure written notice by registered mail stating the defects thereof. Such notice shall require the owner or agent thereof, within a stated time, either to complete the specified repairs or improvements, or to demolish and remove the building or structure or portion thereof.

In the event the owner, agent or person in control of such building or structure cannot be found by the director, in the exercise of reasonable diligence, the director shall, except in cases of emergency make an affidavit to that effect, and the serving of such notice may be made by publishing the same once each week for two consecutive weeks in a newspaper having general circulation through the City of Berry Hill.

If necessary, such notice shall also require the building or structure or portion thereof to be vacated forthwith, securely closed by boarding up all exterior openings, and not reoccupied until the specific repairs and improvements have been completed and a valid certificate of occupancy has been issued. The director shall cause to be posted at each entrance to such building or structure a notice stating: "This Building is Unsafe and its Use or Occupancy has been Prohibited by the Director of Building Inspection."

Such notice shall remain posted until the required repairs are made or until demolition is completed. It shall be unlawful for any person or his agents or representatives to remove such notice without written permission of the director, or for any person to enter such building or structure except for the purpose of making the required repairs or of demolishing the same.

(3) Right of appeal of owner. The owner, agent or person in control of a building or structure declared unsafe under this chapter shall have the right, except in cases of emergency, to appeal from the decision of the director of building inspection, and to appear before the board of building code appeals at

a specified time and place to show cause why he should not comply with any notice issued pursuant to the preceding section.

(4) Failure of owner, etc., to repair, demolish etc., buildings. The owner, agent or person in control of such unsafe building or structure, upon failure, neglect or refusal to comply with the notice to repair, rehabilitate, demolish or vacate and close such building or structure, shall be guilty of a misdemeanor and subject to the penalties prescribed by law.

(5) Action by director of building inspection in cases of emergency. The decision of the director of building inspection shall be final in cases of emergency, without notice to the owner, which in his opinion involve imminent danger to human life or health. The director shall immediately cause such building structure or portion thereof to be made safe or removed. For this purpose, the director may enter at once such building or structure or the premises upon which the same is located, or abutting land or structures, with such assistance and at such cost as he may deem necessary. He may vacate adjacent structures and protect the public by appropriate barricades or such other means as may be necessary, and for this purpose may close a public or private street, alley or means of access.

(6) Notice to tenants to vacate premises. Whenever an occupied building or structure has been condemned or ordered demolished or repaired by the director of building inspection, he shall notify the tenants of such action in writing, and order such tenants to vacate the premises within a specified time, if necessary, or to do and perform such acts or works as may be necessary to fulfill the orders set forth in such notice. It shall be unlawful for any tenant to fail or refuse to promptly comply with any such notice or order.

(7) Duty of other departments to notify director of building inspection in cases of emergency, disaster, etc. In any case of emergency, the director of building inspection shall be notified by the fire department, the police department or any other department of the City of Berry Hill as may be deemed necessary, and he shall immediately proceed to the scene of any disaster caused by a calamity, flood, fire, or any act of God and render assistance and post such notices as may be necessary to warn the general public of imminent or inherent danger of the collapse of any building, structure or appurtenance thereto caused by reason of such calamity, fire, flood, or act of God. The director may request and shall receive, so far as may be necessary in the discharge of his duties, the assistance and cooperation of other officials of the City of Berry Hill.

(8) Authority of director of building inspection to vacate or demolish building when owner fails to do so; costs incurred by City of Berry Hill constitute lien against real estate. In the event the owner, agent or person in control of such building or structure shall fail to comply with the notice to repair or demolish such building or structure, the director, after ascertaining the cost, may cause such building or structure or part thereof to be vacated and securely closed or demolished, and any costs incurred shall be charged to the owner of the

premises involved and shall be a lien against the real property upon which such cost was incurred until paid.

(9) Inspection of substandard buildings prior to issuance of building, electrical, gas, etc., permits. No building, plumbing, electrical, gas or other permit that may be required for an addition, alteration or repair of an existing substandard building or structure shall be issued until such time as an inspection of the property has been made to determine the feasibility of rehabilitation of such building or structure. (Ord. #73-167, April 1974)

12-125. Existing buildings. (1) When compliance with chapter required. If, within any period of twelve months, alterations or repairs costing in excess of fifty percent of the then physical value of the building or structure are made to an existing building or structure, such building or structure shall be made to conform to the requirements of this chapter for new buildings.

(2) Damaged, abandoned, etc., buildings. If an existing building is damaged by fire, storm, flood or otherwise, in excess of fifty percent of its physical value before such damage occurred, or if by reason of inadequate maintenance, dilapidation, obsolescence or abandonment the cost of such necessary repairs and alterations would exceed fifty percent of the physical value of the building or structure, such building or structure shall be removed or demolished or made to conform to the requirements of this chapter for new buildings.

(3) Repairs of from twenty-five to fifty percent of physical value. If the cost of alterations or repairs, or the amount of damage, as specified in the two preceding sections, is more than twenty-five percent but not more than fifty percent of the physical value of such building or structure, the portions to be altered or repaired shall be made to conform to the requirements of this chapter for new buildings to such extent as may be determined by the director of building inspection.

(4) Director of building inspection to determine physical value of buildings. For the purpose of this section, the physical value of a building or structure shall be determined by the director of building inspection.

(5) Change in occupancy of building. If the occupancy of the existing building is entirely changed with no structural alterations, the building shall be made to conform to the requirements of this chapter for the new occupancy classification.

(6) Repairs not covered by preceding subsections of section. Repairs and alterations, not covered by the preceding subsections of this section, restoring a building to its condition prior to damage or deterioration or altering it in conformity with the provisions of this chapter or in such manner as will not extend or increase an existing nonconforming use or create a hazard, may be made with the same kind of materials as those of the original construction. (Ord. #73-167, April 1974)

12-126. Violations. (1) Any person, upon violation of any of the provisions of this chapter, shall be guilty of a misdemeanor and shall be subject to the penalties fixed by law for the commission of a misdemeanor. Each violation shall constitute a separate offense.

(2) In addition to the above, the City of Berry Hill, through its authorized officials, may cause to be instituted a civil action in any court of competent jurisdiction for injunctive relief to prevent violation of any provision of this chapter. (Ord. #73-167, April 1974)

CHAPTER 2

BOARD OF BUILDING CODE APPEALS

SECTION

- 12-201. Board of building code appeals.
- 12-202. Membership.
- 12-203. Organization.
- 12-204. Rules and regulations for conduct of business; duty to hear appeals; meetings.
- 12-205. Appeals to board--when permitted; time limit; filing fee.
- 12-206. Appeals to board--time limit may be reduced in emergencies; filing of appeal.
- 12-207. Authority to grant variances from ordinance or modify decisions of director of codes administration.
- 12-208. Decisions by board.

12-201. Board of building code appeals. There is hereby created a board of building code appeals of the City of Berry Hill. (Ord. #73-167, April 1974)

12-202. Membership. The board of building code appeals shall consist of three members, who shall be the Board of Commissioners of the City of Berry Hill. (Ord. #73-167, April 1974)

12-203. Organization. The director of building inspection shall serve as secretary to the board and shall be custodian of the minutes and records of the proceedings of the board. (Ord. #73-167, April 1974)

12-204. Rules and regulations for conduct of business; duty to hear appeals; meetings. The board of building code appeals shall adopt such rules and regulations as it may deem necessary to conduct its business. The board, in open meetings, shall hear all appeals, under the provisions of this chapter, from decisions and rulings of the director of building inspection. The board shall meet at regular intervals to be determined by the mayor, or in any event, the board shall meet within ten days after notice of appeal has been received. (Ord. #73-167, April 1974)

12-205. Appeals to board--when permitted; time limits; filing fee. Whenever the director or building inspection shall reject or refuse to approve the mode of manner of construction proposed to be followed or materials to be used in the erection or alteration of a building or structure, or when it is claimed that

the provisions of this chapter do not apply, or that an equally good or more desirable form of construction can be employed in any specific case, or when it is claimed that the true intent and meaning of this chapter or any of the regulations hereunder have been misconstrued or wrongly interpreted, the owner of such building or structure or his duly authorized agent may appeal from the decision of the director to the board of building code appeals. Notice of appeal shall be in writing and filed within ten days after the decision is rendered by the director. A fee of twenty-five dollars (\$25.00) shall accompany such notice of appeal. (Ord. #73-167, April 1974)

12-206. Appeals to board--time limit may be reduced in emergencies; filing of appeal. In case of a building or structure which, in the opinion of the director of building inspection, is unsafe or dangerous, the director may, in his order, limit the time for such appeal to a shorter period. All appeals hereunder shall be filed with the department of building inspection on forms provided by the director. (Ord. #73-167, April 1974)

12-207. Authority to grant variances or modify decisions of director of codes administration. The board of building code appeals, when so appealed to shall grant a hearing at the next regular meeting of the board of commissioners and after a hearing, may vary the application of any provision of this chapter to any particular case when, in its opinion, the strict enforcement thereof would do manifest injustice and would be contrary to the spirit and purpose of this chapter or public interest, and when, in its opinion, the interpretation of the director of building inspection should be modified. (Ord. #73-167, April 1974)

12-208. Decisions by board. A decision of the board of building code appeals varying the application of any provision of this chapter or modifying an order of the director of building inspection shall be by resolution of the board, which shall specify in what manner such variations or modifications shall be made, the conditions upon which they are made and the reasons therefor.

Every decision of the board shall be final, subject however, to such remedy as any aggrieved party or the City of Berry Hill may have at law or in equity. All decisions of the board shall be in writing. Every decision shall be promptly entered into the minutes of the meeting of the board and filed in the office of the director of building inspection. The records of the board shall be open to public inspection and a certified copy of each decision shall be sent by mail or otherwise to the appellant. A copy of each decision shall be kept publicly posted in the office of the director for two weeks after filing.

The board shall, in every case, render a decision without unreasonable or unnecessary delay.

If a decision of the board reverses or modifies a refusal, order or disallowance of the director of building inspection or varies the application of any provisions of this chapter, the director shall immediately take action concerning such decision or immediately enforce the decision of the board. (Ord. #73-167, April 1974)

CHAPTER 3

HOUSING CODE

SECTION

12-301. Housing code adopted.

12-302. Modifications.

12-303. Available in recorder's office.

12-304. Violations.

12-301. Housing code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of securing the public safety, health, and general welfare through structural strength, stability, sanitation, adequate light, and ventilation in dwellings, apartment houses, rooming houses, and buildings, structures, or premises used as such, the Standard Housing Code,¹ 1985 edition, as prepared and adopted by the Southern Building Code Congress International, Inc., is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the housing code. (1986 Code, § 4-201)

12-302. Modifications. Wherever the housing code refers to the "Housing Official" it shall mean the city manager or any person appointed or designated by him to administer and enforce the provisions of the housing code. Wherever the "Department of Law" is referred to it shall mean the city attorney. Wherever the "Applicable Governing Body" is referred to it shall mean the municipal governing body. Section 108 of the housing code is deleted. (1986 Code, § 4-202)

12-303. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, three (3) copies of the housing code have been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1986 Code, § 4-203)

12-304. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the housing code as herein adopted by reference and modified. (1986 Code, § 4-204)

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

TITLE 13

PROPERTY MAINTENANCE REGULATIONS¹

CHAPTER

1. WEEDS.

CHAPTER 1

WEEDS

SECTION

13-101. Detrimental to health, safety, etc.

13-102. Height regulated.

13-103. City manager to make inspections and give notice of violations.

13-104. Abatement by city of violations.

13-105. Liability for costs incurred by city.

13-101. Detrimental to health, safety, etc. The unrestricted growth of weeds, high grass and underbrush upon property in the city is hereby found to be, or likely to be, detrimental to the health, safety, morals, convenience and general welfare of the citizens of the city because of the tendency to aggravate hay fever, asthma, and other respiratory diseases, and because of the hazard of grass and brush fires in dry seasons. (1986 Code, § 8-301)

13-102. Height regulated. It shall be the duty of all owners of all property in the city to cause the weeds, grass and underbrush to be maintained at a height no greater than eight inches above ground level. (1986 Code, § 8-302)

13-103. City manager to make inspections and give notice of violations. The city manager is hereby directed to make regular inspections of all property within the city to determine if such cutting and removal of weeds, high grass and underbrush has been accomplished in accordance with the provisions of § 13-102. In the event he shall find any property upon which such cutting and removal has not been so accomplished, then he shall cause notice to be forwarded to the last known address of all owners of such property as are shown upon the tax books of the city, which notice shall be forwarded by registered or certified mail, return receipt requested, to such owners, and such

¹Municipal code references

Obstruction of drainage ditches: § 16-101.

Removal of dog excrement: § 10-101.

notice shall advise the owners that there has been no compliance with § 13-102 of this code, and shall further advise that, in the event compliance is not effected within seven (7) calendar days from the date of mailing such notice, the city will cause such cutting and removal to be accomplished, and the expense thereof charged to the property and the owners thereof as shown by said tax books. (1986 Code, § 8-303)

13-104. Abatement by city of violations. The city manager is authorized and directed to prepare and send all such notices as are provided for in § 13-103 hereinabove and, in the event the cutting and removal required by this chapter shall not have been accomplished in the time allowed in such notice, then the city manager is further authorized and directed to cause such cutting and removal to be done at the expense of the city and to cause an account therefor to be made for each tract or parcel of property upon which such cutting and removal is done. The city manager shall then notify the owners of the property of the amount of such expense, in the same manner as in § 13-103 hereinabove, and shall further notify such owners that reimbursement of such expense is required within seven (7) days from date of such notice. (1986 Code, § 8-304)

13-105. Liability for costs incurred by city. All owners of property shall be liable, jointly and severally, for the expense of such cutting and removal accomplished by the city upon their property, and the property itself shall be subject to suit for reimbursement of such expenses. In the event the expenses of such cutting and removal shall not have been paid within the seven (7) day period allowed following notice as hereinabove provided, then the expenses shall be entered upon the tax books of the city as a lien against each such parcel of property whereon such expense was incurred. In the event such expense shall not have been reimbursed by the date upon which taxes are due and payable for the year in which same was incurred, then the city manager shall cause to be added to said amounts, penalty and interest as are applicable to delinquent assessments, which shall constitute a lien on the property. (1986 Code, § 8-305)

TITLE 14

ZONING AND LAND USE CONTROL

CHAPTER

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

CHAPTER 1

MUNICIPAL ZONING AND PLANNING COMMISSION

SECTION

- 14-101. Creation and membership.
- 14-102. Organization, powers, duties, etc.
- 14-103. Zoning and planning commission designated board of zoning appeals.
- 14-104. Days and times of meetings.

14-101. Creation and membership. The commissioners of the city do hereby create and establish a municipal zoning and planning commission, the same to be known as the "Municipal Zoning and Planning Commission of the City of Berry Hill," and do hereby repeal the powers of the former board and abolish said board. Such commission shall consist of six (6) members, one of the members shall be the mayor; one of the members shall be a member of the board of commissioners, selected by that board; and the other four members shall be appointed by the mayor, who shall make his appointments in writing within one week from the date of final passage of this ordinance and shall file said appointments with the city recorder. The terms of the members of the city's zoning and planning commission shall be as follows:

(1) The mayor and commissioner shall serve during their current terms of office.

(2) The four (4) members to be appointed by the mayor shall serve terms as follows: one for a one-year term, one for a two-year term, one for a three-year term and one for a four-year term, the same to be noted on the written appointments by the mayor, and, upon expiration of the terms of the first four (4) appointed, the mayor shall appoint their successors, each of whom shall serve for a term of four (4) years, so that, after the first appointments have been made, all terms will be for a four-year period and the term of one member of said commission shall expire each year. Any vacancy in any appointed membership shall be filled for the unexpired term by the mayor, who shall also have authority to remove any appointed member, at his pleasure, or accept the resignation of any such appointed member. (1986 Code, § 11-101, as amended by Ord. #2005-356, Nov. 2005)

14-102. Organization, powers, duties, etc. The zoning and 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. (1986 Code, § 11-102)

14-103. Zoning and planning commission designated board of zoning appeals. Pursuant to Tennessee Code Annotated, § 13-7-205, the Municipal Zoning and Planning Commission of the City of Berry Hill is designated as the board of zoning appeals for the city. (as added by Ord. #2005-356, Nov. 2005)

14-104. Days and times of meetings. The Municipal Zoning and Planning Commission of the City of Berry Hill, sitting as the board of zoning appeals, shall meet on the first Monday of each month, at 6:00 P.M. If the first Monday of the month is a city holiday, the meeting shall be held the next day (Tuesday) at 6:00 P.M. The zoning and planning commission shall meet on the first Monday of each month at 6:15 P.M. If the first Monday of the month is a city holiday, the meeting shall be held the next day (Tuesday) at 6:15 P.M. (as added by Ord. #2005-356, Nov. 2005)

CHAPTER 2

ZONING ORDINANCE¹

SECTION

- 14-201. Land use to be governed by zoning ordinance.
- 14-202. [Repealed.]
- 14-203. [Repealed.]
- 14-204. [Repealed.]
- 14-205. [Repealed.]
- 14-206. [Repealed.]
- 14-207. [Repealed.]
- 14-208. [Repealed.]
- 14-209. [Repealed.]
- 14-210. [Repealed.]
- 14-211. [Repealed.]
- 14-212. [Repealed.]
- 14-213. [Repealed.]
- 14-214. [Repealed.]
- 14-215. [Repealed.]
- 14-216. [Repealed.]
- 14-217. [Repealed.]
- 14-218. [Repealed.]
- 14-219. [Repealed.]
- 14-220. [Repealed.]
- 14-221. [Repealed.]
- 14-222. [Repealed.]

14-201. Land use to be governed by zoning ordinance. Land use within the City of Berry Hill shall be governed by Ordinance Number 2009-374, titled "Zoning Ordinance, Berry Hill, Tennessee," and any amendments thereto.² (1986 Code, § 11-201, as amended by Ord. #88-244, Aug. 1988, and Ord. #96-282, Aug. 1996, and repealed and replaced by Ord. #2009-374, Dec. 2009)

¹Amendments to the zoning map are of record in the office of the city recorder.

²Ordinance No. 2009-374, and any amendments thereto, are published as separate documents and are of record in the office of the city recorder and on the city website www.berryhilltn.org.

14-202. [Repealed.] (1986 Code, § 11-202, as repealed by Ord. #2009-374, Dec. 2009)

14-203. [Repealed.] (1986 Code, § 11-203, as amended by Ord. #96-281, Aug. 1996, Ord. #98-303, Dec. 1998, Ord. #99-308, Dec. 1999, and Ord. #2000-309, March 2000, and repealed by Ord. #2009-374, Dec. 2009)

14-204. [Repealed.] (1986 Code, § 11-204, as amended by Ord. #96-282, Aug. 1996, Ord. #98-303, Dec. 1998, and Ord. #99-308, Dec. 1999, and repealed by Ord. #2009-374, Dec. 2009)

14-205. [Repealed.] (1986 Code, § 11-205, as repealed by Ord. #2009-374, Dec. 2009)

14-206. [Repealed.] (1986 Code, § 11-206, as repealed by Ord. #2009-374, Dec. 2009)

14-207. [Repealed.] (1986 Code, § 11-207, as repealed by Ord. #2009-374, Dec. 2009)

14-208. [Repealed.] (Ord. #2003-338, June 2003, as repealed by Ord. #2009-374, Dec. 2009)

14-209. [Repealed.] (1986 Code, § 11-209, as repealed by Ord. #2009-374, Dec. 2009)

14-210. [Repealed.] (Ord. #2003-336, Feb. 2003, as repealed by Ord. #2009-374, Dec. 2009)

14-211. [Repealed.] (1986 Code, § 11-211, as repealed by Ord. #2009-374, Dec. 2009)

14-212. [Repealed.] (1986 Code, § 11-212, as repealed by Ord. #2009-374, Dec. 2009)

14-213. [Repealed.] (1986 Code, § 11-213, as repealed by Ord. #2009-374, Dec. 2009)

14-214. [Repealed.] (1986 Code, § 11-214, as amended by Ord. #91-254, June 1991, and repealed by Ord. #2009-374, Dec. 2009)

14-215. [Repealed.] (1986 Code, § 11-215, as repealed by Ord. #2009-374, Dec. 2009)

14-216. [Repealed.] (1986 Code, § 11-216, as repealed by Ord. #2009-374, Dec. 2009)

14-217. [Repealed.] (1986 Code, § 11-217, as repealed by Ord. #2009-374, Dec. 2009)

14-218. [Repealed.] (1986 Code, § 11-218, as repealed by Ord. #2009-374, Dec. 2009)

14-219. [Repealed.] (1986 Code, § 11-219, as repealed by Ord. #2009-374, Dec. 2009)

14-220. [Repealed.] (1986 Code, § 11-220, as repealed by Ord. #2009-374, Dec. 2009)

14-221. [Repealed.] (1986 Code, § 11-221, as repealed by Ord. #2009-374, Dec. 2009)

14-222. [Repealed.] (Ord. #88-244, Aug. 1988, as repealed by Ord. #2009-374, Dec. 2009)

CHAPTER 3

FLOOD DAMAGE PREVENTION ORDINANCE

SECTION

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

14-301. Statutory authorization, findings of fact, purpose and objectives. (1) Statutory authorization. The Legislature of the State of Tennessee has in Tennessee Code Annotated, § 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 City of Berry Hill, Tennessee, Mayor and Board of Commissioners do ordain as follows:

(2) Findings of fact. (a) The City of Berry Hill, Tennessee, Mayor and Board of Commissioners wishes to maintain eligibility in the National Flood Insurance Program (NFIP) and in order to do so must meet the NFIP regulations found in title 44 of the Code of Federal Regulations (CFR), ch. 1, section 60.3.

(b) Areas of the City of Berry Hill, 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 ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas. This ordinance 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 ordinance 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 flood prone areas;

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

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

(h) To maintain eligibility for participation in the NFIP. (as added by Ord. #2010-377, Sept. 2010)

14-302. Definitions. Unless specifically defined below, words or phrases used in this ordinance shall be interpreted as to give them the meaning they have in common usage and to give this ordinance 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 ordinance, 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) "Act" means the statutes authorizing the National Flood Insurance Program that are incorporated in 42 USC 4001-4128.

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

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

(5) "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.

(6) "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.

(7) "Area of special flood hazard" see "special flood hazard area."

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

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

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

(11) "Building" see "structure."

(12) "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.

(13) "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.

(14) "Emergency flood insurance program" or "emergency program" means the program as implemented on an emergency basis in accordance with section 1336 of the Act. It is intended as a program to provide a first layer amount of insurance on all insurable structures before the effective date of the initial FIRM.

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

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

(17) "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.

(18) "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.

(19) "Existing structures" see "existing construction."

(20) "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).

(21) "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.

(22) "Flood elevation determination" means a determination by the Federal Emergency Management Agency (FEMA) of the water surface elevations of the base flood, that is, the flood level that has a one percent (1%) or greater chance of occurrence in any given year.

(23) "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.

(24) "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.

(25) "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.

(26) "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.

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

(28) "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.

(29) "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.

(30) "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.

(31) "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.

(32) "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.

(33) "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.

(34) "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.

(35) "Floor" means the top surface of an enclosed areas in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

(36) "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.

(37) "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.

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

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

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

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

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

(d) Individually listed on the City of Berry Hill, 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.

(40) "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.

(41) "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.

(42) "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 ordinance.

(43) "Manufactured home" means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

(44) "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.

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

(46) "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 ordinance, 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.

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

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

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

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

(51) "100-year flood" see "base flood."

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

(53) "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.

(54) "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.

(55) "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.

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

(57) "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.

(58) "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.

(59) "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.

(60) "State coordinating agency." The Tennessee Department of Economic and Community Development, Local Planning Assistance Office, as designated by the Governor of the State of Tennessee at the request of FEMA to assist in the implementation of the NFIP for the state.

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

(62) "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.

(63) "Substantial improvement" means:

(a) 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:

(i) The appraised value of the structure prior to the start of the initial improvement; or

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

(b) The term does not, however, include either:

(i) 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

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

(64) "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.

(65) "Variance" is a grant of relief from the requirements of this ordinance.

(66) "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 ordinance is presumed to be in violation until such time as that documentation is provided.

(67) "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. (as added by Ord. #2010-377, Sept. 2010)

14-303. General provisions. (1) Application. This ordinance shall apply to all areas within the City of Berry Hill, Tennessee.

(2) Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified in the City of Berry Hill, Tennessee, as identified by FEMA, and in its Flood Insurance Study (FIS), dated April 20, 2001, and Flood Insurance Rate Map (FIRM), Community Panel Numbers 47037C0219 and 47037C332, dated April 20, 2001, along with all supporting technical data, are adopted by reference and declared to be a part of this ordinance.

(3) Requirement for development permit. A development permit shall be required in conformity with this ordinance 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 ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants or deed restrictions. However, where this ordinance 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 ordinance 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 ordinance 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 ordinance shall not create liability on the part of the City of Berry Hill, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

(8) Penalties for violation. Violation of the provisions of this ordinance 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 ordinance 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 City of Berry Hill, Tennessee from taking such other lawful actions to prevent or remedy any violation. (as added by Ord. #2010-377, Sept. 2010)

14-304. Administration. (1) Designation of ordinance administrator. The city manager is hereby appointed as the administrator to implement the provisions of this ordinance.

(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 ordinance.

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

(iii) A FEMA floodproofing certificate from a Tennessee registered professional engineer or architect that the proposed nonresidential floodproofed building will meet the floodproofing criteria in § 14-305(1) and (2).

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

(b) Construction stage. 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 nonresidential 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 nonresidential 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 ordinance 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 USC 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 § 14-304(2).

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

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

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

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

(k) Maintain all records pertaining to the provisions of this ordinance in the office of the administrator and shall be open or public inspection. Permits issued under the provisions of this ordinance shall be maintained in a separate file or marked or expedited retrieval within combined files. (as added by Ord. #2010-377, Sept. 2010)

14-305. Provisions for flood hazard reduction. (1) General standards. In all areas of special flood hazard, the following provisions are required:

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

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

applicable State of Tennessee and local anchoring requirements for resisting wind forces;

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

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

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

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

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

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

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

(j) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provision of this ordinance, 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 USC 1334;

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

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

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

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

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

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

(b) Nonresidential structures. In AE Zones, where base flood elevation data is available, new construction and substantial improvement of any commercial, industrial, or nonresidential 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 nonresidential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than three feet (3') above the highest adjacent grade (as defined in § 14-302). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

Nonresidential buildings located in all A Zones may be floodproofed, in lieu of being elevated, provided that all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of

practice for meeting the provisions above, and shall provide such certification to the administrator as set forth in § 14-304(2).

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

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

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

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

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

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

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

(d) Standards for manufactured homes and recreational vehicles. (i) All manufactured homes placed, or substantially improved, on:

(A) Individual lots or parcels;

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

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

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

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

(B) In approximate A Zones, without base flood elevations, the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements

of at least equivalent strength) that are at least three feet (3') in height above the highest adjacent grade (as defined in § 14-302).

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

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

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

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

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

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

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

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

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

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

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

(3) Standards for special flood hazard areas with established base flood elevations and with floodways designated. Located within the special flood hazard areas established in § 14-303(2), are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of floodwaters, debris or erosion potential. In addition, the area must remain free of

encroachment in order to allow for the discharge of the base flood without increased flood heights and velocities. Therefore, the following provisions shall apply:

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

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

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

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

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

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

(a) The administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from any federal, state, or other sources, including data developed as a result of

these regulations (see (b), below), as criteria for requiring that new construction, substantial improvements, or other development in approximate A Zones meet the requirements of § 14-305(1) and (2).

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

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

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

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

(6) Standards for areas of shallow flooding (AO and AH Zones). Located within the special flood hazard areas established in § 14-303(2), are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three 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 § 14-305(1) and (2), apply:

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

(b) All new construction and substantial improvements of nonresidential 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 ordinance and shall provide such certification to the administrator as set forth above and as required in accordance with § 14-304(2).

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

(7) Standards for areas protected by flood protection system (A-99 Zones). Located within the areas of special flood hazard established in § 14-303(2), are areas of the 100-year floodplain protected by a flood protection system but where base flood elevations have not been determined. Within these areas (A-99 Zones) all provisions of §§ 14-304 and 14-305, shall apply.

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

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

(b) When a new flood hazard risk zone, and base flood elevation and floodway data is available, new construction and substantial improvements shall meet the standards established in accordance with §§ 14-304 and 14-305. (as added by Ord. #2010-377, Sept. 2010)

14-306. Variance procedures. (1) Board of zoning appeals. The City of Berry Hill Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this ordinance.

(2) Appeals: how taken. An appeal to the board of zoning appeals may be taken by any person, firm or corporation aggrieved or by any governmental officer, department, or bureau affected by any decision of the administrator based in whole or in part upon the provisions of this ordinance. Such appeal shall be taken by filing with the board of zoning appeals a notice of appeal, specifying the grounds thereof. The administrator shall transmit to the board of zoning appeals all papers constituting the record upon which the appeal action was taken. The board of zoning appeals shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to parties in interest and decide the same within a reasonable time which shall not be more than fifteen (15) 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.

(3) Variance procedures. In the case of a request for a variance the following shall apply:

(a) The City of Berry Hill, Tennessee Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this ordinance.

(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 ordinance to preserve the historic character and design of the structure.

(c) In passing upon such applications, the board of zoning appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance; and

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

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

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

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

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

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

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

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

(ix) 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;

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

(d) Upon consideration of the factors listed above, and the purposes of this ordinance, the board of zoning appeals may attach such conditions to the granting of variances, as it deems necessary to effectuate the purposes of this ordinance.

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

(4) 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 § 14-306(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. (as added by Ord. #2010-377, Sept. 2010)

14-307. Legal status provisions. (1) Conflict with other ordinances. In case of conflict between this ordinance or any part thereof, and the whole or

part of any existing or future ordinance of the City of Berry Hill, Tennessee, the most restrictive shall in all cases apply.

(2) Severability. If any section, clause, provision, or portion of this ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this ordinance which is not of itself invalid or unconstitutional.

(3) Effective date. This ordinance shall become effective immediately after its passage, in accordance with the Charter of the City of Berry Hill, Tennessee, and the public welfare demanding it. (as added by Ord. #2010-377, Sept. 2010)

TITLE 15

MOTOR VEHICLES, TRAFFIC AND PARKING¹

CHAPTER

1. MISCELLANEOUS.
2. MOTOR VEHICLE REQUIREMENTS.
3. EMERGENCY VEHICLES.
4. SPEED LIMITS.
5. TURNING MOVEMENTS AND INTERSECTIONS.
6. STOPPING AND YIELDING.
7. PASSING AND OVERTAKING.
8. PROCESSIONS.
9. BICYCLES.
10. PEDESTRIAN REGULATIONS.
11. PARKING REGULATIONS.
12. ENFORCEMENT.

CHAPTER 1

MISCELLANEOUS²

SECTION

15-101. Traffic commission.

¹Municipal code reference

Excavations and obstructions in streets, etc.: title 16.
Surety bond for traffic clerk: § 1-102.

²Municipal code reference

Traffic safety school: § 3-105.

State law references

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

- 15-102. Definitions.
- 15-103. Reckless driving.
- 15-104. One-way roads.
- 15-105. Truck routes.
- 15-106. Obedience to any required traffic control device.
- 15-107. Display of unauthorized signs, signals or markings.
- 15-108. Unlawful riding.
- 15-109. Limitations on backing.
- 15-110. Persons propelling push carts or riding animals to obey traffic regulations.
- 15-111. Use of coasters, roller skates, and similar devices restricted.
- 15-112. Public employees to obey traffic regulations.
- 15-113. Interference with official traffic-control devices or railroad signs or signals.
- 15-114. Driving on right side of roadway--exceptions.
- 15-115. Following too closely.
- 15-116. Driving on divided streets.
- 15-117. Obstructing visibility.
- 15-118. Vehicles shall not be driven on a sidewalk.
- 15-119. Riding on motorcycles, motorbikes.
- 15-120. Boarding or alighting from vehicles.
- 15-121. Driving through safety zone prohibited.
- 15-122. Putting glass, nails, and other substances on highway prohibited.
- 15-123. Horns and warning devices--unnecessary noises.
- 15-124. Mufflers and "muffler cutouts."
- 15-125. Vehicles not to be driven on closed streets.
- 15-126. One vehicle towing another.
- 15-127. Lights on vehicles other than motor vehicles.
- 15-128. Vehicle traffic in city parks.
- 15-129. Compliance with financial responsibility law.
- 15-130. Careless driving.
- 15-131. Displaying of red or blue lights on front of vehicle prohibited; exceptions.
- 15-132. Cutting through private property prohibited.
- 15-133. Causing unnecessary traffic congestion - regulation of traffic on private property.

15-101. Traffic commission. A traffic commission is hereby created for the City of Berry Hill which shall consist of four members who are residents of the City of Berry Hill, to be appointed by the mayor and confirmed by the board of commissioners. The members of said commission shall be bona fide residents of the City of Berry Hill at the time of their appointment and shall have been residents of the City of Berry Hill for a period of one (1) year prior to said

appointment and shall remain residents of the City of Berry Hill during the term of their appointment. In addition to the four members hereinabove set forth the city manager shall serve as an ex officio member but shall have no vote except in case of a tie.

The members of the commission shall serve for terms of four (4) years, with one member's term expiring each year. Each member of the commission shall serve in such capacity until the member's successor has been appointed. Any vacancy in any appointed membership shall be filled for the unexpired term by the mayor, who shall also have authority to remove any appointed member, at his pleasure, or accept the resignation of any such appointed member.

The commission shall organize by selecting from among its membership a chairman, a vice-chairman and a secretary. Each shall serve in such capacity for a term of one year or until his or her successor has been chosen for a like term. It shall be the duty of the secretary to keep all records, conduct official correspondence and generally supervise the clerical work of the commission. Said secretary is authorized to draw upon the employees of the city for such assistance as may be necessary in the performance of his duties.

The commission shall hold regular sessions on the first Monday of each month at 6:30 P.M. at the Berry Hill City Hall. If the first Monday of the month is a city holiday, the meeting shall be held the next day (Tuesday) at 6:30 P.M. Special sessions may be called by the chairman or at the request of any member thereof, provided that notice of such special session has been mailed to each member at least twenty-four (24) hours before the time set, provided further that the announcement of special sessions may be made at any meeting at which a lawful quorum is present, which announcement shall constitute sufficient notice. All hearings of the commission shall be open to the public. The commission shall keep minutes of its proceedings, showing the vote of each member on every question or if absent or failing to vote, indicating such fact. The commission shall keep records of all of its official acts. Each member of the commission, except the city manager, shall be paid \$50.00 per attendance at each regular meeting of the commission.

The presence of three (3) members shall constitute a quorum and the concurring vote of three (3) members shall be necessary to reverse or modify any order, requirement or decision previously made by the commission or to decide in favor on any matter upon which the commission is required to pass.

The commission shall have power to prescribe and recommend to the board of commissioners such measures as in the opinion of the traffic commission would facilitate the movement of traffic through the streets of the city. (1986 Code, § 9-101, as amended by Ord. #89-247, Dec. 1989, and Ord. #2005-355, Nov. 2005)

15-102. Definitions. The following words and phrases when used in this chapter shall for the purpose of this chapter have the meanings respectively ascribed to them in this section.

(1) "Alley." A narrow street between two property lines, one or both of which property lines are ordinarily at the rear of properties fronting on streets having greater width.

(2) "Authorized emergency vehicle." Vehicles of the fire department, fire patrol, police vehicles, and such ambulances and emergency vehicles as are designated or authorized by the commissioner or the chief of police of an incorporated city.

(3) "Bicycle." Every device propelled by human power upon which any person may ride, having two (2) tandem wheels either of which is more than twenty (20) inches in diameter.

(4) "Bus." Every motor vehicle designed for carrying more than ten (10) passengers and used for the transportation of persons; and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation.

(5) "Business district." The territory contiguous to and including a street which contains one or more parcels of property zoned and used for business and/or industrial purposes.

(6) "Commercial vehicle." Every vehicle designed, maintained or used primarily for the transportation of property and freight.

(7) "Controlled-access highway." Every highway, street, or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street, or roadway.

(8) "Crosswalk." (a) That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway.

(b) Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

(9) "Curb." The lateral boundary of that portion of the street designated for the use of vehicles, whether marked with a curb stone or not.

(10) "Driver." Every person who drives or is in actual physical control of a vehicle.

(11) "Explosives." Any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustive units or other ingredients in such proportions, quantities, or packing that an ignition by fire, by friction, by concussion, by percussion, or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the

resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb.

(12) "Freight or passenger curb loading zone." A space adjacent to a curb for the exclusive use of vehicles during the loading or unloading of freight or passengers.

(13) "Highway." The entire width between the boundary lines of every way, whether maintained by the city or other public agency or not, when any part thereof is open for the use of the public for purposes of vehicular travel.

(14) "Intersection." (a) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two (2) highways which join one another at, or approximately at, right angles, or the areas within which vehicles traveling upon different highways joining at any other angle may come in conflict.

(b) Where a highway includes two (2) roadways thirty (30) feet or more apart, when every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two (2) roadways thirty (30) feet or more apart, then every crossing of two (2) roadways of such highways shall be regarded as a separate intersection.

(15) "Laned roadway." A roadway which is divided into two (2) or more clearly marked lanes for vehicular traffic.

(16) "Metal tire." Every tire the surface of which in contact with the highway is wholly or partly of metal or other hard, nonresilient material.

(17) "Motor-driven cycle." Every motorcycle, including every motor scooter, 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, and every bike with a motor attached.

(18) "Motor vehicle." Every vehicle which is self-propelled.

(19) "Official time standard." Whenever certain hours are named herein and they shall mean standard time or daylight time, as may be in current use in Metropolitan Nashville and Davidson County, Tennessee.

(20) "Official traffic-control devices." All signals, markings and devices placed or erected by authority of the city for the purpose of regulating, warning, or guiding traffic, and all signals, markings, and devices placed or erected by the Metropolitan Government of Nashville and Davidson County, Tennessee, and/or the State of Tennessee, or any agency or subdivision thereof, within the corporate limits of the city for the purposes of regulating, warning, or guiding traffic within the corporate limits of the city.

(21) "Operator." (a) Every person who drives or is in physical control of a motor vehicle upon a street or who is exercising control over or steering vehicle.

(b) Every individual who shall operate a vehicle for the owner thereof, or as the agent, employee or permittee of the owner.

(22) "Owner." Any person, individual, firm, co-partnership, corporation, or other in whose name any vehicle shall be registered under the laws of the State of Tennessee, or any other political subdivision of the State of Tennessee, or any other state in the union, where such owner shall be domiciled.

(23) "Park or parking." The standing of a vehicle whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

(24) "Parking area." Any lot or area which is used in conjunction with a business establishment for the purpose of parking vehicles for which no fee is charged and which is open to the use of the general public.

(25) "Pedestrian." Any person afoot.

(26) "Person." Every natural person, firm, co-partnership, association, or corporation.

(27) "Police officer." Every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

(28) "Private road or driveway." Every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

(29) "Railroad." A carrier of persons or property upon cars, other than streetcars, operated upon stationary rails.

(30) "Railroad sign or signal." Any sign, signal or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

(31) "Railroad train." A steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails, except streetcars.

(32) "Residential district." The territory contiguous to and including a street not comprising a business district when the property on such street for a distance of three hundred (300) feet or more is in the main improved with residences.

(33) "Right-of-way." The privilege of the immediate use of the roadway.

(34) "Roadway." That portion of a street improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a street includes two (2) or more separate roadways, the term "roadway" as used herein shall refer to any such roadway separately but not to all such roadways collectively.

(35) "Safety zone." The area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

(36) "School bus." Every motor vehicle owned by a public or governmental agency and operated for the transportation of children to or from school or privately owned and operated for compensation for the transportation of children to or from school.

(37) "Semi-trailer." Every vehicle, with or without motive power, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rest upon or is carried by another vehicle.

(38) "Sidewalk." That portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for use of pedestrians.

(39) "Solid tire." Every tire of rubber or other resilient material which does not depend upon compressed air for the support of the load.

(40) "Special mobile equipment." Every vehicle not designed or used primarily for the transportation of persons or property and incidentally operated or moved over the highways, including farm tractors, road construction or maintenance machinery, ditch-digging apparatus, well-boring apparatus, and concrete mixers. The foregoing enumeration shall be deemed partial and shall not operate to exclude other such vehicles which are within the general terms of this paragraph.

(41) "Stop." When required means complete cessation from movement.

(42) "Stopping or standing." When prohibited means any stopping or standing of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal.

(43) "Street or highway." The entire width between boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

(44) "Through highway or street." Every highway or street or portion thereof at the entrance to which vehicular traffic from intersecting highways or streets is required by law to stop before entering or crossing the same and when stop signs are erected. The Department of Highways and Public Works of the State of Tennessee, the Metropolitan Nashville and Davidson County Parking and Traffic Commission, and the Board of Commissioners of the City of Berry Hill shall be authorized to designate such through highways and authorize the erection of stop signs within the corporate limits of the city.

(45) "Tractor." Any self-propelled vehicle designed or used as a traveling power plant or for drawing other vehicles, but having no provision for carrying loads independently.

(46) "Traffic." Pedestrians, ridden or herded animals, vehicles, and other conveyances either singly or together while using any street for the purpose of travel.

(47) "Traffic-control signal or device." Any device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and proceed.

(48) "Trailer." Every vehicle, with or without motive power, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.

(49) "Truck." Every motor vehicle designed, used, or maintained primarily for the transportation of property.

(50) "Truck tractor." Every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

(51) "Vehicle." Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks. (1986 Code, § 9-201)

15-103. Reckless driving. It shall be unlawful for any person to drive any vehicle upon the streets of the city or upon any private road or driveway or parking area, as located therein, carelessly or heedlessly or in disregard of the rights or safety of others, or without due caution and circumspection and at a rate of speed or in a manner so as to endanger any persons or property. (1986 Code, § 9-260)

15-104. One-way roads. Whenever any street or highway has been designated for one-way traffic and appropriate signs giving notice thereof have been erected a vehicle shall be driven only in the direction so designated. (1986 Code, § 9-220)

15-105. Truck routes. (1) No motor vehicle primarily designed and used for the hauling of property and freight shall operate on any street or highway within the city except upon these following streets which are here and now designated as truck routes.

TRUCK ROUTES:

Craighead Street between Franklin Pike and White Avenue
Bransford Avenue between Craighead and Berry Road
Berry Road between Franklin Pike and Bransford Avenue

(2) The provisions of this section shall not apply to any motor vehicle proceeding to or from a point of delivery or loading of property or freight within the city not located on a designated truck route, provided, however, that all such vehicles must travel by the most direct route from a designated truck route to and from the point of loading or delivering. (1986 Code, § 9-104)

15-106. Obedience to any required traffic-control device.¹ The driver of any vehicle, pedestrians and others on or about the streets and public ways of the city shall obey the instructions of any official traffic-control device applicable thereto unless otherwise directed by a traffic or police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this chapter. (1986 Code, § 9-208)

15-107. Display of unauthorized signs, signals or markings.

(1) 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 device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official traffic-control device or any railroad sign or signal.

(2) No person shall place or maintain nor shall any public authority permit upon any street any traffic sign or signal bearing thereon any commercial advertising.

(3) This section shall not be deemed to prohibit the erection upon private property adjacent to streets of signs giving useful directional information and of a type that cannot be mistaken for official signs.

(4) Every such prohibited sign, signal or marking is hereby declared to be a public nuisance and the authorities of the city having jurisdiction over said street are hereby authorized and empowered to remove same or cause it to be removed without notice. (1986 Code, § 9-212)

15-108. Unlawful riding. No person shall ride on any portion of a vehicle not designed or intended for the use of passengers. This provision shall not apply to an employee engaged in the necessary discharge of a duty, or to persons riding within truck bodies in space intended for merchandise. (1986 Code, § 9-253)

15-109. Limitations on backing. The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic. (1986 Code, § 9-250)

15-110. Persons propelling push carts or riding animals to obey traffic regulations. Every person propelling any push cart or riding an animal upon a roadway, and every person driving any animal-drawn vehicle, shall be

¹Municipal code references

Stop signs, yield signs, flashing signals, pedestrian control signs, traffic control signals generally: §§ 15-601--15-606.

subject to the provisions of this chapter applicable to the driver of any vehicle, except those provisions of this chapter which by their very nature can have no application. (1986 Code, § 9-204)

15-111. Use of coasters, roller skates, and similar devices restricted. No person upon roller skates, coasters, sleds, or riding in or by means of any coaster, toy vehicle, or similar device, shall go upon any roadway except while crossing a street on a crosswalk and when so crossing such person shall be granted all of the rights and shall be subject to all of the duties applicable to pedestrians. (1986 Code, § 9-205)

15-112. Public employees to obey traffic regulations. The provisions of this chapter shall apply to the driver of any vehicle owned by or used in the service of the United States Government, this state, county, city or other governmental entity, and it shall be unlawful for any said driver to violate any of the provisions of this chapter, except as otherwise permitted in this chapter or by state statute. (1986 Code, § 9-206)

15-113. Interference with official traffic-control devices or railroad signs or signals. No person shall, without lawful authority, attempt to or in fact alter, deface, injure, knock down or remove any official traffic-control device or any railroad sign or signal or any inscription, shield or insignia thereon, or any other part thereof. (1986 Code, § 9-213)

15-114. Driving on right side of roadway--exceptions. (1) Upon all roadways of sufficient width a vehicle shall be driven upon the right half of the roadway, except as follows:

- (a) When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement;
- (b) When the right half of a roadway is closed to traffic while under construction or repair;
- (c) Upon a roadway divided into three (3) marked lanes for traffic under the rules applicable thereon; or
- (d) Upon a roadway designated and signposted for one-way traffic.

(2) Upon all roadways any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven in the right-hand lane then available for traffic, or as close as practicable to the right-hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection or into a private road or driveway. (1986 Code, § 9-214)

15-115. Following too closely. The driver of a vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard to the speed of such vehicles and the traffic upon and condition of the roadway. (1986 Code, § 9-221)

15-116. Driving on divided streets. Whenever any street has been divided into two or more roadways by leaving an intervening space or by a physical barrier or clearly indicated divided section so constructed as to impede vehicular traffic, every vehicle shall be driven only upon the right hand roadway and no vehicle shall be driven over, across, or within such dividing space, barrier or section, except through an opening in such physical barrier or dividing section or space or at a cross-over or intersection established by public authority. (1986 Code, § 9-222)

15-117. Obstructing visibility. No person shall place or cause to be placed or maintained, either temporarily or permanently, any sign, card, poster, pennant, banner, bush, tree, hedge, or other obstruction:

(1) On private property within twenty-five (25) feet of any street intersection so as to interfere with traffic visibility at the intersection.

(2) On private property in such a manner as to interfere with traffic visibility of any driver using an authorized driveway or alley.

(3) Within the right-of-way of any street within the area of the city. (1986 Code, § 9-230)

15-118. Vehicles shall not be driven on a sidewalk. The driver of a vehicle shall not drive within any sidewalk area except at a permanent or temporary driveway. (1986 Code, § 9-249)

15-119. Riding on motorcycles, motorbikes. A person operating a motorcycle shall ride only upon the permanent and regular seat attached thereto, and such operator shall not carry any other person nor shall any other person ride on a motorcycle unless such motorcycle is designed to carry more than one person, in which event a passenger may ride upon the permanent and regular seat if designed for two persons, or upon another seat firmly attached to the rear or side of the operator. (1986 Code, § 9-251)

15-120. Boarding or alighting from vehicles. (1) No person shall board or alight from any vehicle while such vehicle is in motion.

(2) No person shall open the door of a motor vehicle on the side available to moving traffic unless and until it is reasonably safe to do so, and can be done without interfering with the movement of other traffic, nor shall any person leave a door open on the side of a vehicle available to moving traffic for

a period of time longer than necessary to load or unload passengers. (1986 Code, § 9-252)

15-121. Driving through safety zone prohibited. No vehicle shall at any time be driven through or within a safety zone. (1986 Code, § 9-254)

15-122. Putting glass, nails, or other substances on highway prohibited. (1) No person shall throw or deposit upon any highway any glass bottle, glass, nails, tacks, wire, cans, or any other substance likely to injure any person, animal, or vehicle upon such highway.

(2) Any person who drops, or permits to be dropped or thrown, upon any highway any destructive or injurious material shall immediately remove the same or cause it to be removed. (1986 Code, § 9-255)

15-123. Horns and warning devices - unnecessary noise. Every motor vehicle, when operated upon a street, shall be equipped with a horn in good working order. No vehicle other than an emergency vehicle shall be equipped with, and no driver thereof shall use or operate upon a street, any bell, siren, or exhaust whistle. An emergency vehicle may be equipped with a bell, siren, or exhaust whistle of a type approved by the chief of the metropolitan police department. The sounding of any horn or signal device on any automobile, motorcycle, bus, or other vehicle while not in motion is hereby prohibited except as a danger signal if another vehicle is approaching apparently out of control, or if in motion, only as a danger signal after or as brakes are being applied and deceleration is intended. The creation by means of any such signal device of any unreasonably loud or harsh sound and the sounding of such device for any unnecessary and unreasonable period of time is hereby prohibited. (1986 Code, § 9-256)

15-124. Mufflers and "muffler cutouts." It shall be unlawful for any person to drive a motor vehicle over or upon any of the streets of the city unless such motor vehicle is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke. It shall be unlawful for any person to use a muffler cutout on any motor vehicle operated upon any street of the city. (1986 Code, § 9-257)

15-125. Vehicles not to be driven on closed streets. No driver of any vehicle, except an authorized emergency vehicle while engaged in emergency duty, shall drive such vehicle upon any street or highway which is officially closed to traffic and which is plainly indicated as such by officially erected signs, barricades, or other traffic control devices. (1986 Code, § 9-258)

15-126. One vehicle towing another. It shall be unlawful to tow any motor vehicle upon any street or highway if the drawbar or connection exceeds eight feet (8') from one vehicle to the other. Any vehicle being towed upon any street during a period between one-half hour after sunset and one-half hour before sunrise shall maintain lights on both sides and the rear thereof visible to the rear and on both sides for a distance of not less than two hundred feet (200'). (1986 Code, § 9-259)

15-127. Lights on vehicles other than motor vehicles. Every vehicle other than a motor vehicle when traveling upon a highway or roadway within the city shall be equipped with a light attached to and on the upper left side of such vehicle, capable of displaying a light visible five hundred feet (500') to the front and five hundred feet (500') to the rear of such vehicle under ordinary atmospheric conditions, and such light shall be displayed during the period from one-half (½) hour after sunset to one-half (½) hour before sunrise and at all other times when there is not sufficient light to render clearly discernible any person on said road or highway at a distance of two hundred feet (200') ahead of such vehicle. (1986 Code, § 9-271)

15-128. Vehicle traffic in city parks. (1) Vehicle traffic in the parks owned and operated by the City of Berry Hill is prohibited except as is authorized in § 15-128(2).

(2) The city manager may authorize vehicle traffic in the parks of the City of Berry Hill for specific delivery, maintenance, repairs, or for activities which involve a vehicle use for a platform or delivery device.

(3) Emergency vehicles operated for the public welfare on an emergency function and vehicles used for the collection of refuse while on official business are exempted from the application of this section. (Ord. #95-270, Aug. 1995)

15-129. Compliance with financial responsibility law. (1) Every vehicle operated within the corporate limits must be in compliance with the financial responsibility law.

(2) At the time the driver of a motor vehicle is charged with any moving violation under title 55, chapters 8 and 10, parts 1-5, chapter 50; any provision of an ordinance of the City of Berry Hill involving a motor vehicle being operated on the streets of the city; or at the time of an accident for which notice is required pursuant to the provisions of Tennessee Code Annotated, § 55-10-106, the officer shall request evidence of financial responsibility as required by this section and by state law. In case of a motor vehicle accident for which notice is required pursuant to 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.

(3) For the purposes of this section, "financial responsibility" means:

(a) Documentation, such as the declaration page of an insurance policy, and binder, or an insurance card from an insurance company authorized to do business in Tennessee, stating that a policy of insurance meeting the requirements of the Tennessee Financial Responsibility Law of 1977, compiled in Tennessee Code Annotated, chapter 12, title 55, has been issued.

(b) A certificate, valid for one (1) year, issued by the commissioner of safety, stating that a cash bond in the amount required by the Tennessee Financial Responsibility Law of 1977, compiled in Tennessee Code Annotated, chapter 12, title 55, has been paid or filed with the commissioner, or has qualified as a self-insurer under Tennessee Code Annotated, § 55-12-111; or

(c) The motor vehicle being operated at the time of the violation was owned by a carrier subject to the jurisdiction of the department of safety or the interstate commerce commission, or was owned by the United States, the State of Tennessee, or any political subdivision thereof, and that such motor vehicle was being operated with the owner's consent.

(4) A violation of this section shall be punishable by a civil fine up to fifty dollars (\$50.00). Any violation may be dismissed by the court upon a showing at the time of the hearing or before the court date that the person charged was in compliance at the time the violation was charged. (Ord. #2002-327, April 2002)

15-130. Careless driving. Every person operating a vehicle upon the streets of the City of Berry Hill, Tennessee, or upon any private road or driveway or parking area, shall drive the same in a careful and prudent manner, having regard for the width, grade, curves, corners, traffic, weather conditions, traffic and pedestrians on the streets and private areas, and other attendant circumstances, so as not to endanger the life, limb or property of any person. Failure to drive in such manner shall constitute careless driving and shall be a violation of this section and chapter.

A violation of this section shall be punishable by a fine of up to fifty dollars (\$50.00). (Ord. #2002-328, May 2002)

15-131. Displaying of red or blue lights on front of vehicle prohibited; exceptions. (1) It shall be unlawful for any person to operate a vehicle, motorcycle, motor bike, bus, or truck in the City of Berry Hill,

Tennessee, except as exempted in subsection (2), that displays a red or blue light or both red and blue lights to the front of the vehicle.

(2) Emergency vehicles as defined by Tennessee Code Annotated, § 55-8-101 and/or authorized emergency vehicles as defined in § 15-301 of the Berry Hill Municipal Code are exempt from the provision of this section.

(3) A violation of this section shall be punishable by a fine of fifty dollars (\$50.00) for each violation. (Ord. #2003-337, April 2003)

15-132. Cutting through private property prohibited. (1) The driver or operator of any vehicle shall not drive upon or through any private property or upon or through any driveway not a part of the street or roadway for the purpose of avoiding obedience to any traffic control signal or device.

(2) A violation of this section shall be punishable by a fine not to exceed fifty dollars (\$50.00) for each violation. (as added by Ord. #2005-354, Sept. 2005)

15-133. Causing unnecessary traffic congestion -- regulation of traffic on private property. (1) It is unlawful for the driver or operator of a vehicle to

(a) Cause unnecessary traffic congestion by driving aimlessly upon parking lots of shopping centers, other commercial or residential properties, or properties of non-profit institutions, when a sign has been posted prohibiting such activity, or

(b) Disregard traffic control devices regulating the flow of traffic posted on such properties.

(2) Property owners may post traffic control devices regulating the flow of traffic upon their properties, and may request in writing that such traffic controls be enforced by the Berry Hill Police Department. The responsibility and cost for erection of all such signs shall be borne by the property owners and all signs shall be subject to the approval of the Berry Hill Traffic Commission and shall conform to standard uniform traffic sign regulations utilized by the City of Berry Hill.

(3) A violation of this section shall be punishable by a fine of not to exceed fifty dollars (\$50.00) for each violation. (as added by Ord. #2005-354, Sept. 2005)

CHAPTER 2**MOTOR VEHICLE REQUIREMENTS****SECTION**

15-201. Lights required on motor vehicles.

15-202. Headlamps on motorcycles.

15-203. Lighting devices and reflectors on vehicles having a width in excess of eighty inches.

15-204. Braking requirements.

15-201. Lights required on motor vehicles. (1) Every motor vehicle other than a motorcycle or a bicycle, which shall be operated on the streets and roads of the city, shall be equipped with at least two (2) and not more than four (4) headlights, with at least one (1) on each side of the front of the motor vehicle, and provided further that no spotlight or auxiliary lamp shall be so aimed upon approaching another vehicle that any part of the high intensity portion of the beam therefrom is directed towards the approaching vehicle. In addition, every motor vehicle shall be equipped with two (2) red tail lamps and two (2) red stop lights on the rear of such vehicle, and one (1) tail lamp and one (1) stop light shall be on each side of said vehicle. The stop light may be incorporated within the tail lamp assembly of said vehicles.

(2) Each headlight, tail lamp, and stop light required in this section shall be in good condition and operational, and the stop light shall be so arranged as to be actuated by the application of the service or foot brakes and shall be capable of being seen and distinguished from a distance of one hundred feet (100') to the rear of said motor vehicle in normal daylight but shall not project a glaring or dazzling light.

(3) The headlights and tail lamps of such vehicles shall be displayed during the period from one-half (½) hour after sunset to one-half (½) hour before sunrise and at all other times when there is not sufficient light to render clearly discernible any person on the road or highway at a distance of two hundred feet (200') ahead of such vehicle. (1986 Code, § 9-272)

15-202. Headlamps on motorcycles. Every motorcycle shall be equipped with at least one (1) and not more than two (2) headlamps. (1986 Code, § 9-273)

15-203. Lighting devices and reflectors on vehicles having a width in excess of eighty inches. Every motor vehicle, other than a passenger car, and any road roller, road machinery, or farm tractor having a width in excess of eighty (80) inches or more and being operated upon the streets

and roadways of the city shall be equipped with all lighting devices, reflectors, and load markings required for the operation of such vehicles upon the highways of the State of Tennessee, as provided in the laws of the State of Tennessee, and any failure to comply with a requirement of the laws of the State of Tennessee in that regard shall be deemed a violation of this section. (1986 Code, § 9-274)

15-204. Braking requirements. (1) Every motor vehicle, other than a motorcycle or bicycle, when operated upon a roadway or a street of the city shall be equipped with brakes adequate to control the movement of and to stop and hold such vehicle, including two (2) separate means of applying the brakes, each of which means shall be effective to apply the brakes to at least two (2) wheels.

(2) Every motorcycle and bicycle, when operated upon the roadways and streets of the city shall be equipped with at least one (1) brake which may be operated by hand or foot, adequate to control the movement of and to stop and hold such motorcycle or bicycle. (1986 Code, § 9-275)

CHAPTER 3**EMERGENCY VEHICLES****SECTION**

15-301. Authorized emergency vehicles.

15-302. Following fire apparatus prohibited.

15-303. Crossing fire hose.

15-301. Authorized emergency vehicles. (1) The driver of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, but subject to the conditions herein stated.

(2) The driver of an authorized emergency vehicle may:

(a) Park or stand, irrespective of the provisions of this chapter;

(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 speed limits so long as he does not endanger life or property;

(d) Disregard regulations governing direction of movement or turning in specified directions.

(3) The exemptions herein granted to an authorized emergency vehicle shall apply only when such vehicle is making use of audible and visual signals meeting the requirements of the applicable laws of this state, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.

(4) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others. (1986 Code, § 9-207)

15-302. Following fire apparatus prohibited. The driver of any vehicle other than one on official governmental business in connection with the fire shall not follow any fire apparatus traveling in response to a fire alarm closer than five hundred feet (500'), or drive into or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (1986 Code, § 9-232)

15-303. Crossing fire hose. No vehicle shall be driven over any unprotected hose of a fire department when laid down on any street or private

driveway to be used at any fire or alarm of fire without the consent of the officials in command. (1986 Code, § 9-233)

CHAPTER 4

SPEED LIMITS

SECTION

15-401. Speed restrictions.

15-402. Establishment of speed zones.

15-403. Minimum speed regulations.

15-401. Speed restrictions. No person shall drive a vehicle upon any street, roadway, or other area within the corporate limits of the city at a speed greater than is reasonable and prudent under the conditions then existing.

(1) The speed limit over and along Franklin Pike, within the city limits of Berry Hill, shall be forty (40) miles per hour.

(2) The speed limit over and along Craighead Street, Melrose Avenue and Bransford Avenue, within the city limits of Berry Hill, shall be thirty-five (35) miles per hour.

(3) The speed limit over and along Fairlane Drive, Hurdwood Drive, Rosehaven Drive and Azalea Place shall be twenty-five (25) miles per hour.

(4) The speed limit over and along Rosedale Place shall be fifteen (15) miles per hour.

(5) The speed limit over and along all other streets and roads within the city, where not expressly established by ordinance, shall be thirty (30) miles per hour.

A violation of this section shall be punishable by a fine of up to fifty dollars (\$50.00). (Ord. #2003-339, June 2003)

15-402. Establishment of speed zones. The legislative authority of the city shall possess the power to prescribe speed limits within the corporate limits of the city on the highways, avenues, and streets thereof, and to erect appropriate signs and traffic signals. Whenever such authority has determined that a special hazard exists in any area of the city it may by appropriate ordinance reduce or change the speed limit for that particular area within the city, as established by this chapter. (1986 Code, § 9-262)

15-403. Minimum speed regulation. No person shall drive a motor vehicle at such a slow speed as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law. (1986 Code, § 9-263)

CHAPTER 5

TURNING MOVEMENTS AND INTERSECTIONS

SECTION

- 15-501. Required position and method of turning at intersections.
- 15-502. Vehicle turning left at intersection.
- 15-503. Vehicles approaching or entering an intersection.
- 15-504. Vehicle entering through highway or stop intersection.
- 15-505. Vehicle entering highway from private road or driveway.
- 15-506. Vehicle entering through highway or yield intersection.
- 15-507. Turning on curve or crest of grade prohibited.
- 15-508. Turning or stopping movements.

15-501. Required position and method of turning at intersections.

The driver of a vehicle intending to turn at an intersection shall do so as follows:

(1) 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.

(2) Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of such center line where it enters the intersection and after entering the intersection, the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered. Whenever practicable, the left turn shall be made in that portion of the intersection to the left of the center of the intersection.

(3) Left turns on other than two-way roadways. At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left-hand lane lawfully available to traffic moving in such direction upon the roadway being entered. (1986 Code, § 9-224)

15-502. Vehicle turning left at intersection. The driver of a vehicle within an intersection intending to turn to the left shall yield the right of way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard. (1986 Code, § 9-225)

15-503. Vehicles approaching or entering an intersection. The driver of a vehicle approaching an intersection shall yield the right of way to a vehicle which has entered the intersection from a different highway. When two vehicles enter an intersection from different highways at approximately the same time, the driver of the vehicle on the left shall yield the right of way to the vehicle on the right. The foregoing rules are modified at through highways and as hereinafter stated in this chapter, and by the erection of stop signs, yield signs, and other traffic control devices. (1986 Code, § 9-226)

15-504. Vehicle entering through highway or stop intersection.

(1) Every driver of a vehicle approaching a stop sign shall stop before entering the crosswalk on the near side of the intersection or in the event there is no crosswalk shall stop at a clearly marked stop line, but if none, then at the point nearest the 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 a traffic control signal.

(2) The driver of a vehicle shall stop, as required by paragraph (1) above, at the entrance to a through highway and shall yield the right-of-way to other vehicles which have entered the intersection from said through highway or street or which are approaching so closely on said through highway or street as to constitute an immediate hazard, but said driver having so yielded may proceed and the drivers of all other vehicles approaching the intersection on said through highway shall yield the right-of-way to the vehicle so proceeding into or across the through highway or street.

(3) The driver of a vehicle shall likewise stop in obedience to a stop sign as required herein at an intersection where a stop sign is erected at one or more entrances thereto although not a part of a through highway and shall proceed cautiously, yielding to vehicles not so obliged to stop which are within the intersection or approaching so closely as to constitute an immediate hazard, but may then proceed. (1986 Code, § 9-227)

15-505. Vehicle entering highway from private road or driveway.

The driver of a vehicle about to enter or cross a highway from a private road or driveway shall yield the right-of-way to all vehicles approaching on said highway. (1986 Code, § 9-228)

15-506. Vehicle entering through highway or yield intersection.

(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 or more lanes at such entrance is designated a yield lane by an appropriate marker, this subsection 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. (1986 Code, § 9-229)

15-507. Turning on curve or crest of grade prohibited. No vehicle shall be turned so as to proceed in the opposite direction upon any curve, or upon the approach to or near the crest of a grade, where such vehicle cannot be seen by the driver of any other vehicle approaching from either direction within five hundred feet (500'). (1986 Code, § 9-245)

15-508. Turning or stopping movements. (1) No person shall turn a vehicle at an intersection unless the vehicle is in proper position upon the roadway as required by this chapter or turn a vehicle to enter a private road or driveway or other wise turn a vehicle from a direct course or move right or left upon a roadway unless and until such movement can be made with reasonable safety, and no person shall so turn any vehicle without giving an appropriate signal in the manner provided in this chapter.

(2) No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided in this chapter to the driver of any vehicle immediately to the rear when there is an opportunity to give such signal. (1986 Code, § 9-246)

CHAPTER 6

STOPPING AND YIELDING

SECTION

- 15-601. Operation of vehicles and others on approach of authorized emergency vehicles.
- 15-602. Obedience to signal indicating approach of train.
- 15-603. Traffic-control signal legend.
- 15-604. Flashing signals.
- 15-605. Signals on starting, stopping, or turning.

15-601. Operation of vehicles and others on 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 the city, or of a police vehicle properly and lawfully making use of an audible signal only:

(1) 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.

(2) This section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway. (1986 Code, § 9-231)

15-602. Obedience to signal indicating approach of train.

(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 he can do so safely. The foregoing requirements shall apply when:

(a) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;

(b) A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train;

(c) A railroad train approaching within approximately one thousand five hundred feet (1,500') of the highway crossing emits a signal

¹Municipal code reference

Special privileges of emergency vehicles: title 15, chapter 3.

audible from such distance and such railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard;

(d) An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.

(2) No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed. (1986 Code, § 9-247)

15-603. Traffic-control signal legend. Whenever traffic is controlled by traffic-control signals exhibiting the words "Go," "Caution," or "Stop," or exhibiting different colored lights successively one at a time, or with arrows, the following colors only shall be used and said terms and lights shall indicate and apply to drivers or 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 cross the intersection when the red or "Stop" signal is exhibited.

(b) Pedestrians facing such 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; 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 other traffic traveling in accordance with their traffic signal. However, said turn will not endanger other traffic lawfully using said 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 or sign with similar wording, erected by the responsible authorities. No turns on red shall be permitted from

Greystone Road onto Berry Road or from West Iris Drive onto Bransford Avenue. Appropriate signs shall be posted.

(b) No pedestrian facing such signal shall enter the roadway unless he can do safely and without interfering with any vehicular traffic.

(4) 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 he can do so 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. (1986 Code, § 9-209, as amended by Ord. #2005-358, Dec. 2005)

15-604. Flashing signals. 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:

(1) Flashing red (stop signal). When a red lens is illuminated with rapid intermittent flashes, and said 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.

(2) 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. (1986 Code, § 9-211)

15-605. Signals on starting, stopping, or turning. (1) Every driver who intends to start, stop, or turn, or partly turn from a direct line, shall first see that such movement can be made in safety and whenever the operation of any other vehicle may be affected by such movement shall give a signal required in this section, plainly visible to the driver of such other vehicle of his intention to make such movement.

(2) The signal herein required shall be given by means of the hand and arm, or by some mechanical or electrical device approved by the Tennessee Department of Safety, in the manner herein specified. Whenever the signal is given by means of the hand and arm, the driver shall indicate his intention to start, stop, or turn, or partly turn, by extending the hand and arm from beyond the left side of the vehicle, in the following manner:

(a) For left turn, or to pull to the left, the arm shall be extended in a horizontal position straight from and level with the shoulder.

(b) For right turn, or pull to the right, the arm shall be extended upward.

(c) For slowing down or to stop, the arm shall be extended downward.

(3) Such signals shall be given continuously for a distance of at least fifty feet (50') before stopping, turning, partly turning, or materially altering the course of the vehicle.

(4) Drivers having once given a hand signal, or electrical or mechanical device signal, must continue the course thus indicated unless they alter the original signal and take care that drivers of vehicles and pedestrians have seen and are aware of the change.

(5) Drivers receiving a signal from another driver shall keep their vehicles under complete control and shall be able to avoid an accident resulting from a misunderstanding of such signal.

(6) Drivers of vehicles standing or stopped at the curb or edge, before moving such vehicles, shall give signals of their intention to move into traffic, as hereinbefore provided, before turning in the direction the vehicle shall proceed from the curb. (1986 Code, § 9-223)

CHAPTER 7

PASSING AND OVERTAKING

SECTION

- 15-701. Passing vehicles proceeding in opposite directions.
- 15-702. Overtaking a vehicle on the left.
- 15-703. When overtaking on the right is permitted.
- 15-704. Limitations on overtaking on the left.
- 15-705. No-passing zone.
- 15-706. Overtaking and passing school or church bus.

15-701. Passing vehicles proceeding in opposite directions.

Drivers of vehicles proceeding in opposite directions shall pass each other to the right, and upon roadways having width for not more than one (1) line of traffic in each direction each driver shall give to the other at least one half ($\frac{1}{2}$) of the main-traveled portion of the roadway as nearly as possible. (1986 Code, § 9-215)

15-702. Overtaking a vehicle on the left. The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to those limitations, exceptions and special rules hereinafter stated:

(1) The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle. Whenever overtaking or passing of another vehicle is prohibited by yellow lines marked on the street or by signs posted on the side of the street, no vehicle shall overtake and pass another vehicle until the area designated as a no passing zone has been cleared, or the vehicles have moved into an area where passing is permitted.

(2) Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle. (1986 Code, § 9-216)

15-703. When overtaking on the right is permitted. (1) The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

- (a) When the vehicle overtaken is making or about to make a left turn;
- (b) Upon a street or highway with unobstructed pavement not occupied by parked vehicles of sufficient width for two (2) or more lines of moving vehicles in each direction;
- (c) Upon a one-way street, or upon any roadway on which traffic is restricted to one (1) direction of movement, where the roadway is free

from obstructions and of sufficient width for two (2) or more lines of moving vehicles.

(2) The driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movement in safety. In no event shall such movement be made by driving off the pavement or main-traveled portion of the roadway. (1986 Code, § 9-217)

15-704. Limitations on overtaking on the left. (1) No vehicle shall be driven to the left side of the center of a roadway on which traffic moves in two directions in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free from oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every event the overtaking vehicle must return to the right-hand side of the roadway before coming within one hundred feet (100') of any vehicle approaching from the opposite direction.

(2) No vehicle shall at any time be driven to the left side of the roadway under the following conditions:

(a) When approaching the crest of a grade or upon a curve in the highway where the driver's view is obstructed within three hundred feet (300') or such distance as to create a hazard in the event another vehicle might approach from the opposite direction;

(b) When approaching within one hundred feet (100') of or traversing any intersection or railroad grade crossing;

(c) When the view is obstructed upon approaching within one hundred feet (100') of any bridge, viaduct, or tunnel.

(d) Where official signs are in place, or marking by lines on the pavement, directing that traffic keep to the right. (1986 Code, § 9-218)

15-705. No-passing zone. Whenever the Tennessee State Department of Highways, the appropriate governing body of the Metropolitan Government of Nashville and Davidson County, Tennessee, or the city has determined that certain portions of any street or highway within the corporate limits of the city would be especially hazardous to overtaking and passing or driving to the left of the roadway, and have designated same by appropriate signs or markings on the roadway to indicate the beginning and end of such no-passing zones, then every driver of a vehicle shall obey those directions and refrain from passing another vehicle within said no-passing zones. (1986 Code, § 9-219)

15-706. Overtaking and passing school or church bus. (1) The driver of a vehicle upon a highway upon meeting or overtaking, from either direction, any school bus or church bus which has stopped on the highway or street for the purpose of receiving or discharging passengers shall stop the

vehicle before reaching such bus and remain stopped until such bus resumes motion or the driver is signaled by the bus driver to proceed or the visual signals warning drivers of approaching vehicles to stop are no longer actuated. Provided, however, that the provisions of this subsection shall not apply to a church bus unless the church bus is equipped with warning devices similar to school busses designed to warn approaching drivers to stop.

(2) The driver of a vehicle upon a divided roadway need not stop upon meeting or passing a school bus or a church bus which is on a different portion of the roadway than that portion upon which the vehicle is traveling. For the purpose of this subsection, a divided highway shall mean roadways divided by an intervening space which is not suitable for vehicular traffic and where pedestrians are not permitted to cross the roadway.

(3) Except as otherwise provided by the preceding subparagraphs, the school bus or church bus driver is required to stop such bus on the right-hand side of such road or highway, and said driver shall cause the bus to remain stationary and the visual stop signs on the bus actuated until all school children or passengers who should be discharged from the bus have been so discharged and until children or passengers whose destination causes them to cross the road or highway at that place have negotiated such crossing. (1986 Code, § 9-248)

CHAPTER 8**PROCESSIONS****SECTION**

15-801. Drivers in a procession.

15-802. Funeral processions to be identified.

15-803. Driving through funerals or other processions.

15-801. Drivers in a procession. Each driver in a funeral or other procession shall drive as near to the right-hand edge of the roadway as practicable and shall follow the vehicle ahead as close as is practicable and safe. (1986 Code, § 9-235)

15-802. Funeral processions to be identified. A funeral composed of a procession of vehicles shall be identified as such by the display of lighted head lights, by the display upon the outside of each vehicle of a pennant or other identifying insignia, or by such other method as may be determined and designated by the traffic and parking commission. (1986 Code, § 9-234)

15-803. Driving through funeral or other processions. No driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are properly designated as required in this chapter. (1986 Code, § 9-236)

CHAPTER 9

BICYCLES

SECTION

15-901. Traffic laws apply to persons riding bicycles.

15-902. Obedience to traffic control devices by persons riding bicycles.

15-903. Riding on bicycles.

15-904. Lamps and other equipment on bicycles.

15-905. Responsibility of parent or guardian for his child's or ward's violation of this chapter.

15-901. Traffic laws apply to persons riding bicycles. Every person riding a bicycle upon any roadway or public way within the city shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle being operated within the city, as provided and prescribed by the laws of the State of Tennessee, the traffic ordinances of the Metropolitan Government of Nashville and Davidson County, Tennessee, and the traffic ordinances of the city, in addition to the special provisions set out by this chapter. (1986 Code, § 9-266)

15-902. Obedience to traffic control devices by persons riding bicycles. (1) Any person operating a bicycle shall obey the instructions of official traffic signals, signs, and other control devices applicable to vehicles, unless otherwise directed by a police officer.

(2) Whenever authorized signs are erected indicating that no right or left turn is permitted, no person operating a bicycle shall disobey the direction of any such sign, except where such person dismounts from the bicycle to make any such turn, in which event such person shall then obey the regulations applicable to pedestrians. (1986 Code, § 9-267)

15-903. Riding on bicycles. (1) No person shall ride a bicycle other than astride a permanent and regular seat attached thereto.

(2) No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

(3) Persons riding bicycles upon a roadway shall not ride more than two (2) abreast.

(4) Whenever a usable path has been provided adjacent to a roadway and designated for bicycle riders, bicycle riders shall use such path and shall not use the roadway.

(5) Any person riding upon a bicycle shall not attach the same or himself to any moving vehicle upon a roadway.

(6) The operator of a bicycle emerging from an alley, driveway, or building shall, upon approaching a sidewalk or the sidewalk area extending

across any alley way or public way, yield the right of way to all pedestrians approaching on said side walk or side walk area, and upon entering the roadway shall yield the right of way to all vehicles approaching on said roadway.

(7) No person operating a bicycle shall carry any package, bundle, or article which prevents the rider from keeping at least one hand upon the handle bar.

(8) No person shall ride a bicycle upon any sidewalk or public walkway within the city. (1986 Code, § 9-268)

15-904. Lamps and other equipment on bicycles. (1) Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance on at least five hundred feet (500') to the front and with a red reflector on the rear of a type which shall be visible from all distances from fifty feet (50') to three hundred feet (300') to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle. A lamp emitting a red light visible from a distance of five hundred feet (500') to the rear may be used in addition to the red reflector.

(2) Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheel skid on dry, level, clean pavement. (1986 Code, § 9-269)

15-905. Responsibility of parent or guardian for his child's or ward's violation of this chapter. Any parent of a child or the guardian of any ward who shall authorize or knowingly permit any such child and/or his ward to violate any provisions of this chapter is hereby deemed guilty of a misdemeanor and is punishable the same as his child and/or his ward for the violation of this chapter. (1986 Code, § 9-270)

CHAPTER 10

PEDESTRIAN REGULATIONS

SECTION

- 15-1001. Pedestrians' subject to traffic control signals.
- 15-1002. Pedestrians' right of way in crosswalks.
- 15-1003. Crossing in front of vehicle stopped to discharge passengers.
- 15-1004. Pedestrians standing in roadway.
- 15-1005. Crossing at right angles.
- 15-1006. When pedestrian shall yield.
- 15-1007. Pedestrians walking along roadways.
- 15-1008. Drivers to exercise due care.
- 15-1009. Pedestrian control signals.

15-1001. Pedestrians' subject to traffic control signals. Pedestrians shall be subject to traffic control signals as established by this chapter and the laws of the State of Tennessee in effect within the corporate limits of the city, but all other places pedestrians shall be granted those rights and be subject to the restrictions stated in this chapter. (1986 Code, § 9-237)

15-1002. Pedestrians' right of way in crosswalks. (1) When a traffic control signal is not in place or not in operation the driver of a vehicle shall yield the right of way (slowing down or stopping if need be to so yield) to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.

(2) No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield.

(3) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle. (1986 Code, § 9-238)

15-1003. Crossing in front of vehicle stopped to discharge passengers. No person shall cross any street within ten feet (10') of the front of any vehicle which has stopped momentarily to load or discharge passengers, except in compliance with the direction of a police officer or a traffic signal. (1986 Code, § 9-239)

15-1004. Pedestrians standing in roadway. No person shall stand in a roadway or on the shoulder of a roadway for the purpose of selling merchandise, soliciting contributions, or soliciting a ride. (1986 Code, § 9-240)

15-1005. Crossing at right angles. No pedestrian shall cross a roadway at any place other than by a route at right angles to the curb or by the shortest route to the opposite curb except in a crosswalk as provided therefor. (1986 Code, § 9-241)

15-1006. When pedestrian shall yield. (1) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right of way to all vehicles upon the roadway.

(2) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right of way to all vehicles upon the roadway. (1986 Code, § 9-242)

15-1007. Pedestrians walking along roadways. (1) Where sidewalks are provided it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway.

(2) Where sidewalks are not provided any pedestrian walking along and upon a highway shoulder shall, when practicable, walk only on the left side of the roadway or its shoulder facing traffic which may approach from the opposite direction. (1986 Code, § 9-243)

15-1008. Drivers to exercise due care. Notwithstanding the foregoing provisions of this chapter every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any confused or incapacitated person upon a roadway. (1986 Code, § 9-244)

15-1009. Pedestrian control signals. Whenever 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 his crossing on the walk signal shall proceed to a sidewalk or safety island while the wait signal is showing. (1986 Code, § 9-210)

CHAPTER 11

PARKING

SECTION

- 15-1101. Generally.
- 15-1102. Where prohibited.
- 15-1103. Emergency repairs of motor vehicle on public streets.
- 15-1104. Loading and unloading zone.
- 15-1105. Presumption with respect to illegal parking.
- 15-1106. Temporary no parking areas.
- 15-1107. Parking trailer in public right-of-way restricted.
- 15-1108. Penalty.

15-1101. Generally. Every vehicle parked upon a street within this city shall be so parked that it does not encroach into a lane of traffic. Where traffic lanes are not marked, vehicles shall be so parked that vehicles passing them in the same direction are not required to cross the centerline of the street into the opposite lane to avoid the parked vehicles. On two-way streets vehicles shall only be parked on the right side of the street. On one-way streets, where the city has not placed signs prohibiting the same, vehicles may park on the left side of the street. (Ord. #2002-325, Aug. 2003)

- 15-1102. Where prohibited.** No person shall park a vehicle:
- (1) In violation of any sign placed or erected by the state or city;
 - (2) 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;
 - (3) In a manner that blocks or impedes access to a public or private driveway;
 - (4) Within twenty-five (25) feet of an intersection of two streets;
 - (5) Within fifteen (15) feet of a fire hydrant.
 - (6) Within a pedestrian crosswalk;
 - (7) Within twenty (20) feet of a crosswalk at an intersection;
 - (8) Within thirty (30) feet upon the approach of any flashing beacon, stop sign or traffic signal located at the side of a roadway;
 - (9) Within fifty (50) feet of the nearest rail of a railroad crossing;
 - (10) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;
 - (11) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
 - (12) Upon any bridge or other elevated structure upon a highway or within a highway tunnel;

(13) In a manner that any part of the vehicle extends into a marked traffic lane;

(14) In a parking space clearly identified by an official sign or pavement marking 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. (Ord. #2002-325, Aug. 2003)

15-1103. Emergency repairs of motor vehicle on public streets.

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. (Ord. #2002-325, Aug. 2003)

15-1104. Loading and unloading zone. No person shall park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers or merchandise in any place marked by the city as a loading and unloading zone. (Ord. #2002-325, Aug. 2003)

15-1105. 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. (Ord. #2002-325, Aug. 2003)

15-1106. Temporary no parking areas. The city manager and/or chief of police shall have authority to designate temporary no parking areas. Such designations, if not otherwise specified, shall expire as of the next regular meeting of the board of commissioners. (Ord. #2002-325, Aug. 2003)

15-1107. Parking trailer in public right-of-way restricted. No person shall park a trailer in a street right-of-way for longer than seventy-two (72) hours. (Ord. #2003-335)

15-1108. Penalty. A violation of this chapter shall be punishable by a fine up to twenty-five dollars (\$25.00). A violation of § 15-1102(14) of this chapter shall be punishable by a fine up to fifty dollars (\$50.00). Each day that such violation continues shall constitute a separate offense. (Ord. #2002-325, Aug. 2003)

CHAPTER 12

ENFORCEMENT

SECTION

- 15-1201. Failure to appear on traffic citation.
- 15-1202. Illegal parking.
- 15-1203. Abandoned, wrecked or junk vehicles.
- 15-1204. Use of driver's license in lieu of bail.
- 15-1205. Authority of police officials.
- 15-1206. Obedience to police officers.
- 15-1207. Officers authorized to remove certain vehicles.
- 15-1208. Schedule of fines for moving and non-moving traffic violations.

15-1201. Failure to appear on traffic citation. Any person who has committed a traffic offense, as provided in the traffic ordinances of the city, and who has been issued and signed a citation agreeing to appear before the traffic court of the city at a date, time, and place certain, and who fails to appear as agreed, shall be guilty of the offense of "failing to appear," as agreed in a traffic citation, and the judge of said court is authorized to issue a warrant for the arrest of said traffic offender upon the charge of violating said traffic offense, and an additional warrant on the charge of "failing to appear," as he or she has agreed to in said traffic citation. Said warrants for the arrest of said offender shall be served upon him and he shall be dealt with in the same manner, as provided by law, as if said offender had refused to sign the agreement to appear in court when the traffic offense was originally committed and waived the issuance of service of an original warrant upon him. (1986 Code, § 9-103)

15-1202. Illegal parking. (1) No person shall park a vehicle in a restricted or no parking area or in any manner which would interfere or impede the free use of the streets and highways by other vehicles or the public generally, nor shall anyone park any vehicle within the city so as to block or impede the vehicular entrance to private or public property to others who shall have a right of entrance to and upon said property.

(2) Lined and or designated parking spaces on the west side of the public street of East Iris Drive between Thompson Lane and Heather Place shall be reserved for use by persons conducting business at Berry Hill City Hall. Lined and or designated parking spaces at each of the three public parks in the City of Berry Hill--the public park on Azalea Place, the public park on East Iris Drive at Erica Place, and the public park on Columbine Place--shall be reserved for use by persons using the respective park facilities at the time the vehicle, trailer, motorcycle, or item of equipment is in the designated spaces. It shall be unlawful for any person to park a vehicle, trailer, motorcycle, or item of equipment in these lined or designated spaces unless it be for the purpose or

purposes designated herein. Each violation of this provision shall be punishable by a fine of \$5.00. A lined or designated parking space on the grounds of the Berry Hill City Hall, 698 Thompson Lane, Berry Hill, Tennessee shall be provided for parking for handicapped persons. It shall be unlawful for any person other than a handicapped person to park or leave a vehicle, trailer, motorcycle or item of equipment in this designated space. Handicapped person(s) shall be defined to include the definition contained in Tennessee Code Annotated, § 68-18-203(l) and any person qualified to receive vehicle license or registration designating the person as handicapped. The first violation of this provision shall be punishable by a fine of \$25.00 and any subsequent violation shall be punishable by a fine of \$50.00. (1986 Code, § 9-264, as amended by Ord. #86-233, Nov. 1986)

15-1203. Abandoned, wrecked, or junk vehicles. (1) Declaration of purpose. In enacting this section, the board of commissioners finds and declares that the accumulation and storage of abandoned, wrecked, junked, partially dismantled, or inoperative motor vehicles, on private property, which motor vehicles are in the nature of rubbish and unsightly debris, violates the zoning regulations of the city and are hereby declared a nuisance detrimental to the health, safety, and welfare of the community in that such conditions tend to interfere with the enjoyment of and reduce the value of private property; invite plundering; create fire hazards and other safety and health hazards to minors as well as adults; interfere with the comfort and well being of the public; create, extend, and aggravate urban blight; and that the public health, safety, and general welfare require that such conditions be regulated, abated, and prohibited.

(2) Storage on private property restricted. It shall be unlawful to park, store, or leave, or to permit the parking or storing of any licensed or unlicensed motor vehicle of any kind, for a period in excess of 72 hours, when such vehicle is in a rusted, wrecked, junked, partially dismantled, inoperative, abandoned, or unlicensed condition, whether attended or not, upon any private property within the city unless the same is completely enclosed within a building or unless it is in connection with a business enterprise operated in lawful place and manner and licensed as such, when necessary to the operation of such business enterprise.

(3) Removal required. The accumulation and storage of one or more such motor vehicles in violation of the provisions of this section shall constitute rubbish and debris and a nuisance detrimental to the health, safety, and general welfare of the inhabitants of the city. It shall be the duty of the registered owner of such motor vehicle and it shall also be the duty of the person in charge or control of the private property upon which such motor vehicle is located, whether as owner, tenant, occupant, lessee, or otherwise, to remove the same to a place of lawful storage, or to have the motor vehicle housed within a building where it will not be visible from the street.

(4) Notice to remove. Whenever there is reasonable grounds to believe that a violation of the provisions of this section exists, the city manager shall give, or cause to be given, written notice to the registered owner of any motor vehicle which is in violation of this section, or shall give such notice to the owner or person in lawful possession or control of the private property upon which such motor vehicle is located, or shall give such notice to both the registered owner and to the owner or person in lawful possession or control of such private property that said motor vehicle violates the provisions of this section, and demand that said motor vehicle be removed to a place of lawful storage within 72 hours, or that within 72 hours, the same be housed in a building where it will not be visible from the street. Service of such notice shall be by mail duly posted.

(5) Refusal to remove. Any person who fails, neglects, or refuses to remove the abandoned, wrecked, junked, partially dismantled, or inoperative motor vehicle or house the same and abate said nuisance in accordance with the notice as provided herein, shall be in violation of the provisions of this section and shall be guilty of a misdemeanor.

(6) Removal by city. In addition to and not in lieu of any other procedure prescribed in this section or in this code for removal of abandoned motor vehicles from private property, if the registered owner of any motor vehicle which is in violation of this section or the owner or person in lawful possession or control of the private property upon which the same is located shall fail, neglect, or refuse to remove or house such abandoned, wrecked, junked, partially dismantled, or inoperative motor vehicle in accordance with the notice given pursuant to the provisions of this section, the city manager may cause the removal and disposal of such motor vehicle in the manner provided for by Tennessee Code Annotated, title 55, chapter 16. He may thereafter maintain an action in the name of the city, in the appropriate court, against any person or persons upon whom notice was served as required by this section to recover the costs of removing and disposing of such motor vehicle in the event the proceeds of any sale thereof shall be insufficient to recover such costs.

(7) Entry to remove; removal by owner. The city manager, chief of police, any regularly employed and salaried officer of the police department of the city, contracting agents of the city, and employees of such contracting agents, and authorized officers, employees, and agents of the city, and each of them, are hereby expressly authorized to enter upon private property for the purpose of enforcing the provisions of this section. Any person to whom notice was given pursuant to this section shall have the right to remove or house such motor vehicle in accordance with said notice at his own expense at any time prior to the arrival of the city manager or his authorized representative(s) for the purpose of removal. (1986 Code, § 9-105)

15-1204. Use of driver's license in lieu of bail. Whenever any person lawfully possessed of a chauffeur's or operator's license theretofore issued to him by the Department of Safety, State of Tennessee, is issued a citation or arrested and charged with a violation of any municipal ordinance regulating traffic except driving under the influence of intoxicants or narcotic drugs or leaving the scene of an accident, the person so cited shall have the option of depositing his chauffeur's or operator's license issued under Tennessee Code Annotated, Title 55, Chapter 7, with the officer or court demanding bail in lieu of any other security required for his appearance in the city court in answer to any such charge before the court except those herein expressly excluded.

Whenever any person hereof deposits his chauffeur's or operator's license as herein provided, either the officer or the court demanding bail as hereinabove described shall issue said person a receipt for said license upon a form approved or provided by the department of safety, and thereafter said person shall be permitted to operate motor vehicles upon the public highways of this community during the pendency of the case in which the license was deposited.

The clerk or judge of a court accepting the license shall thereafter forward to the Department of Safety the license of a driver deposited in lieu of bail if the driver fails to appear in answer to the charge filed against him and in accordance with Chapter 267 of the 87th General Assembly of the State of Tennessee, 1971 Session, the license will not be released by the Department of Safety until the charge for which the license was so deposited has been disposed of by the court in which pending. (1986 Code, § 9-102)

15-1205. Authority of police officials. (1) It shall be the duty of the officers of the police department or such officers as are assigned by the chief of police to enforce all street traffic laws of this city and all state vehicle laws applicable to street traffic in the city.

(2) Officers of the police department and such officers as are assigned by the chief of police are hereby authorized to direct all traffic by voice, hand, or signal, in conformance with traffic laws provided that in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the police department may direct traffic as conditions may require, notwithstanding the provisions of the traffic laws. (1986 Code, § 202)

15-1206. Obedience to police officers. No person shall willfully fail or refuse to comply with any lawful order or direction of any police officer invested by law with authority to direct, control or regulate traffic. (1986 Code, § 9-203)

15-1207. Officers authorized to remove certain vehicles.

(1) Whenever any officer of the city finds a vehicle standing upon a roadway within the city in violation of a provision of this chapter, or whenever it becomes necessary to make an arrest of the operator or driver of any vehicle

and the arresting officer is unable to turn the custody of the vehicle over to another person designated by the owner or operator who shall be present at the scene at the time because of the absence of such person or such person is incapable of providing for the custody and removal of the vehicle, or the officer is unable to allow the person to be arrested to remove his vehicle to the nearest legal parking location because the owner or operator is either incapable of removing same or refuses to move same, then such arresting officer is hereby authorized to move such vehicle or have same removed at the expense of the owner to the nearest garage or other place of safety.

(2) Whenever any officer of the city finds a vehicle unattended upon any roadway or public way within the city and determines that such vehicle constitutes an obstruction to traffic, then such officer is hereby authorized to provide for the removal of such vehicle to the nearest garage or other place of safety at the expense of the owner. (1986 Code, § 9-265)

15-1208. Schedule of fines for moving and non-moving traffic violations. Fines for moving and non-moving traffic offenses and other violations within the City of Berry Hill are as follows:

SCHEDULE OF VIOLATION FINES

Moving Violations

Reckless driving	\$50.00
Failure to stop for train crossing	\$40.00
Passing stopped school bus	\$50.00
Failing to yield for stop sign/traffic light	\$40.00
Speeding (non-radar)	\$25.00
Speeding (radar) \$2.00 per mile for each mile exceeding the speed limit. If speeding 10 mph over the speed limit an additional \$2.00 -- State Injury Fund	
All other moving violations	\$40.00

Non-Moving Violations

Littering or spill in street	\$50.00
Registration law violation	\$25.00
Muffler law violation	\$25.00
Mud flaps violation	\$25.00
Windshield, goggles, helmet, crash bars violation	\$25.00
Bumper law violation	\$25.00
Other non-moving violations	\$25.00

Other Violations

Child restraint	\$40.00
Seat belt	Min \$10.00 to \$40.00

SCHEDULE OF VIOLATION FINES

Glasses	\$40.00
Littering	\$50.00
Blinding fog lights	\$20.00
Obscene sticker violation	\$40.00
Parking law (where fine not otherwise set)	\$25.00
Fire lane violation	\$50.00
Tinted windshields	\$40.00
Change of address violation (drivers license)	\$25.00
Parking in handicapped parking space or unauthorized use of disabled placard violation of <u>Tennessee Code Annotated,</u> § 55-21-108 (Ord. #99-307, Oct. 1999)	\$100.00

TITLE 16

STREETS AND SIDEWALKS, ETC¹

CHAPTER

1. MISCELLANEOUS.
2. EXCAVATIONS AND CUTS.

CHAPTER 1

MISCELLANEOUS

SECTION

- 16-101. Obstruction of drainage ditches.
- 16-102. Numbering of properties on Franklin Road.
- 16-103. Obstruction of streets by trains.

16-101. Obstruction of drainage ditches. Every person constructing and/or maintaining any private driveway, walkway, alleyway, or other means of ingress and egress, where such driveway, walkway, alleyway, or other means of ingress and egress intersects any street, roadway, or alleyway in the city, and crosses any drainage ditch or canal through which the surface waters drain, or flow, shall, at said crossing, construct and maintain, free from obstruction, a culvert of sufficient size to carry the natural flow of water freely through said ditch or canal.

It shall be unlawful for any person or corporation, in any way, to damage, injure, or obstruct any canal or drainage ditch, or to dam or obstruct the flow of drainage water in any said ditch or canal. (1986 Code, § 12-101)

16-102. Numbering of properties on Franklin Road. The houses, buildings, and lots abutting Franklin Road shall be numbered beginning at the northerly city limit of the City of Berry Hill and continuing to the southerly city limit in ascending numerals, the first numeral to correspond with and continue the last numerical designation established on adjoining property within the City of Nashville.

Even numbers shall be placed on the east side of the road and odd numbers on the west.

The city recorder is authorized and empowered to allot numbers for all houses, buildings, and lots abutting on the Franklin Road and all property

¹Municipal code reference

Related motor vehicle and traffic regulations: title 15.

owners shall cause the numbers allotted to be placed clearly upon the front of any building or house.

The failure of any property owner to have a number approved by the recorder placed upon his building or house shall be a misdemeanor. (1986 Code, § 12-102)

16-103. Obstruction of streets by trains.¹ It shall be unlawful for any railroad or its agents and servants by the operation of switch engines, or by the passing of trains over any street that is crossed by railroad tracks at grade, or at any crossing where flashing light signal devices are installed and maintained, to cause the flashing light signal devices to show red or the gongs to sound for a longer continuous period than five minutes, or to permit such trains to remain upon and across any such street or intersection, whereby travel upon such street is stopped for a longer continuous period than five minutes.

The provisions of this section shall not apply to trains, switch engines, or on-track vehicles which are moving and require longer than five minutes to pass a street or intersection. (1986 Code, § 12-103, as amended by Ord. #96-280, Aug. 1996)

¹Municipal code reference
Trespassing on trains: § 11-602.

CHAPTER 2

EXCAVATIONS AND CUTS

SECTION

- 16-201. Permit required.
- 16-202. Permit fee.
- 16-203. Excavations to be barricaded.
- 16-204. Restoration of excavations.

16-201. Permit required. It shall be unlawful for any person to make any excavation of any kind in any street, alley, or public way of the city without having applied for and obtained from the city manager a permit so to do, and any person making such excavation without first having obtained a permit as aforesaid, shall be guilty of a misdemeanor. (1986 Code, § 12-201)

16-202. Permit fee. For the privilege of excavating in the streets or alleys, a fee of twenty-five dollars (\$25.00) will be charged for all permits, with the exception of public utilities. No permits shall be issued until the fee has been paid. (1986 Code, § 12-202)

16-203. Excavations to be barricaded. Every person who shall dig or cause to be dug any excavation in or adjoining any highway, street, alley, sidewalk, or other public place, shall have the same guarded in the daytime with a substantial barrier or danger signal, sufficient and suitable to warn persons traveling on or using said highway, street, alley, sidewalk, or other public place, of the presence of said excavation, and against danger.

Every person who shall dig or cause to be dug any excavation in or adjoining any highway, street, alley, or other public place, shall likewise post or securely fasten a red light at each end of the excavation during the entire night, and if said excavation shall occupy more than fifty feet in such highway, street, alley, sidewalk, or other public place, running longitudinally therewith, then additional red lights shall be placed every fifty feet. If such excavation shall extend laterally across any highway, street, alley, or other public place, then red lights shall be securely fastened every six feet along the excavation. Such red lights shall be so fastened that they cannot be blown over by storms. (1986 Code, § 12-203)

16-204. Restoration of excavations. Every person excavating in the streets or alleys of the city as aforesaid, shall carefully refill the excavation and, in doing so, shall strictly pursue the following method: The dirt shall be put back in thin even layers of not more than four inches in thickness, then tamped until

the dirt is thoroughly compacted and (in the case of laying pipe) until the excavation is filled above the pipe at least four inches; if large stones have been removed from the excavation, they shall be handed down to a workman in the excavation and by him carefully made to fit as closely as possible, using a hammer to accomplish this, when necessary, the smaller stones then to be thoroughly tamped or mauled; the remainder of the excavation to be filled with ordinary clean macadam stone in layers not exceeding six inches in thickness and a wearing surface of equal thickness and composition to the existing surface, and this tamped or mauled to an even surface with the street. (1986 Code, § 12-204)

TITLE 17

REFUSE AND TRASH DISPOSAL¹

CHAPTER

1. REFUSE.

CHAPTER 1

REFUSE

SECTION

- 17-101. Unlawful disposition.
- 17-102. Storage and disposition of residential refuse.
- 17-103. Storage and disposition of commercial and industrial refuse.
- 17-104. Nuisances prohibited.
- 17-105. Abatement of nuisances.
- 17-106. Collection; hours restricted.

17-101. Unlawful disposition. It shall be unlawful to throw, or to place upon any street or upon any public or private property within the city, any garbage, trash or refuse, except as hereinafter provided.

It shall further be unlawful to burn garbage, trash, or other refuse within the city. (1986 Code, § 8-201)

17-102. Storage and disposition of residential refuse. (1) Every owner, occupant or tenant of a residence within the city having or accumulating garbage or rubbish which may create a nuisance shall remove or have the same removed by a garbage collector under contract to, or franchised by, the city.

(2) Every residential owner, occupant or tenant producing garbage and/or refuse shall provide and maintain in a place easily accessible to the garbage collector, and where it will not be a public nuisance or in any degree offensive, a durable, water tight, not-easily-corrodible, rodent and fly proof, galvanized metal, fiberglass or plastic container(s) with a suitable bail or handles and tightfitting cover having a capacity of not exceeding 32 gallons. All garbage to be placed in the container shall first be drained of all excess liquids, and solids shall be wrapped in paper or placed in tied plastic bags so as to prevent the escape of liquids therefrom. The garbage collector shall collect only that garbage which has been placed in an appropriate container.

¹Municipal code reference

Property maintenance regulations: title 13.

(3) All garbage and refuse shall be deposited in said containers, which shall be adequate in size and/or numbers to contain all garbage generated on the premises between collections. The contents of all containers shall be removed not less than once per week.

(4) Garbage containers that leak, or have ill fitting or missing lids shall be "tagged" by the garbage collector with tags provided by the city. The tag shall advise the owner, occupant or tenant that the garbage container is defective and that the owner, occupant or tenant shall replace the container within seven (7) days or be subject to the penalty clause of this code. Each day of non-compliance shall constitute a separate offense. The owner, occupant, or tenant may, however, request the city manager or his agent to inspect the subject container to confirm the non-compliance. The decision of the city manager or his agent shall be final.

(5) It shall be unlawful to store garbage in any container not in conformance with the containers described in subsection (2) above. All such containers shall be maintained in the rear of the premises, and shall at all times be kept clean and in a condition that the contents may not leak or fall out. The lid or cover shall be kept in place at all times except when garbage or refuse is being deposited therein or removed therefrom.

(6) Weeds, grass clippings, tree limbs, brush, building materials, and other hard to handle non-putrescible bulk materials shall be placed in garbage containers, or plastic bags, cut and baled, tied, bundled, stacked, or packaged so as to confine such material and to prevent it from scattering or blowing, and so as not to exceed five feet in length and fifty pounds in weight. Supplemental bags, bundles and packages shall be placed adjacent to the garbage containers for collection, or placed in an easily accessible place near the street or road.

(7) The following substances are hereby prohibited from, and shall not be deposited in, residential garbage containers:

Explosives. Flammable liquids, solids or gasses, such as gasoline, benzene, alcohol, or other similar substances.

Any material that could be hazardous or injurious to the garbage collector or which could cause damage to refuse collection vehicles or disposal equipment.

Construction waste, including materials from construction, remodeling, and construction site preparation, including but not limited to rocks, trees, debris, dirt, bricks, blocks, concrete, plaster, wood, metal, fill, and all types of scrap building materials and residue.

Hot materials such as ashes, cinders, charcoal, etc.

Human or animal waste.

(8) The board of commissioners of the city may grant a franchise, or contract, for residential garbage collection for a term not to exceed five (5) years to any person, persons, company or corporation who shall comply with the terms

of this chapter. Such franchise or contract shall not be transferable without the permission of the board of commissioners. The garbage collector shall provide refuse collection service to all residential owners, occupants and tenants within the city at no charge to such residential owners, occupants and tenants. (1986 Code, § 8-202)

17-103. Storage and disposition of commercial and industrial refuse. (1) Every owner or manager of a commercial or industrial activity or operation within the city having or accumulating garbage or rubbish, including commercial or industrial wastes of whatever nature, shall remove or have removed such garbage or refuse by garbage or refuse collector of the owner or manager's choice, at the expense of the owner or manager.

(2) Every owner or manager of a commercial or industrial activity or operation within the city having or accumulating garbage and/or refuse shall provide and maintain in a place easily accessible to the refuse collector, and where it will not be a public nuisance or in any degree offensive, one or more residential type garbage containers of the type described in § 17-102(2) above, or, one or more commercial or industrial type refuse containers suitable for handling by automated equipment. Such containers shall be adequate in size and/or numbers to contain all garbage and refuse generated on the premises between pick-ups. Commercial/industrial type refuse containers shall be of welded steel construction and rodent proof, with a close fitting lid. All garbage to be placed in such containers shall first be drained of all excess liquids, and solids shall be wrapped in paper or placed in tied plastic bags so as to prevent the escape of liquids therefrom. The refuse collector shall collect only that garbage and refuse which has been placed in an appropriate container. It shall be unlawful to store garbage, trash, or other refuse in any container not in conformance with the containers described above. All such containers shall be maintained in the rear of the premises or other unobtrusive area, and shall at all times be kept clean and in a condition that the contents may not leak or fall out. The lid or cover of all containers shall be kept closed at all times except when garbage or refuse is being deposited therein or removed therefrom.

(3) The contents of all garbage and refuse containers shall be removed not less than once per week. The city manager or his agent may, however, and is hereby authorized to require, after proper written notice, and as individual circumstances warrant, more frequent collection of all putrescible wastes, except sewage and body wastes, but including waste accumulated of animal, food or vegetable matter, and waste that attends the preparation, use, cooking, dealing in or storing of meat, fish, fowl, fruit and vegetables, and all cans, boxes, cartons, papers, or other objects which have food or other organic materials of any nature in or adhering thereto, and shall include all of such wastes or accumulations of vegetable and animal matter produced by the preparation

and/or sale of food for human consumption in or by hotels, motels, restaurants, grocery stores, hospitals, boarding houses, institutions, and other similar establishments. In addition, the city manager or his agent may, and is further authorized to require, when conditions warrant, that all such putrescible matter be placed in sturdy plastic bags and tied, before disposal in an appropriate refuse container.

(4) The following substances are hereby prohibited from, and shall not be deposited in, commercial and industrial refuse containers:

Explosives.

Flammable liquids, solids or gasses, such as gasoline, benzene, alcohol, or other similar substances.

Any material that could be hazardous or injurious to the refuse collector or which could cause damage to refuse collection vehicles or disposal equipment.

Hot materials such as ashes, cinders, charcoal, etc.

Human or animal waste.

Radioactive wastes. (1986 Code, § 8-203)

17-104. Nuisances prohibited. (1) It shall be unlawful for any person to permit or suffer trash, rubbish, and refuse to accumulate on his property to such extent that a nuisance is created, which is injurious to the health and welfare of the inhabitants of the city.

(2) The person in ownership or control of any property where stagnant water may collect, shall fill in or drain the same or take other adequate measures to prevent the breeding or harborage of insects and other pests.

(3) It shall be unlawful for the person in ownership or control of any property to permit or suffer tires to be stored thereon, where stagnant water may collect in the tires allowing the breeding or harborage of insects or other pests.

(4) A violation of this section shall be punishable by a fine of up to fifty (\$50.00) dollars. Each day that such violation continues shall constitute a separate offense. (1986 Code, § 8-204, as amended by Ord. #2005-357, Nov. 2005)

17-105. Abatement of nuisances. (1) When any person in ownership or control of property in the city allows rubbish to accumulate thereon and fails or refuses to remove the same, or allows stagnant water to collect thereon, without taking adequate measures to prevent the breeding or harborage of insects or other pests, or allows tires to be stored in a manner that allows collection of stagnant water and refuses to eliminate the collection thereof, the city manager may, when in his opinion the same may affect the health, safety, welfare, or mar the beauty of said city, expend necessary funds to have the same removed and said property cleared of such condition.

(2) Upon the payment of the costs for said work, the city manager shall certify the facts, together with the amount of the costs, to the city attorney, who will in turn prepare a lien, and the same shall be properly notarized by the city manager and filed of record in the Register's Office for Davidson County, Tennessee, against the owner and against said property, and the same shall be a lien upon the property, and said property may be sold, as provided by law, for the satisfaction of said lien. (1986 Code, § 8-205, as amended by Ord. #2005-357, Nov. 2005)

17-106. Collection; hours restricted. (1) Collection of garbage or refuse in the City of Berry Hill, Tennessee is prohibited between the hours of 10:00 P.M. and 7:00 A.M. if:

(a) Collection of such garbage and/or refuse requires the use of a mechanical lift device and the refuse or garbage container exceeds five hundred (500) gallons, and,

(b) Collection of such garbage and/or refuse is located in one of the areas designated by the Addendum Map¹. These are areas where it has been demonstrated that collection of the type of refuse or garbage container described herein during the restricted hours is disruptive to residential areas during evening and night hours.

(2) A violation of this section shall be punishable by a fine up to five hundred dollars (\$500.00). (Ord. #2001-317, March 2001)

¹The Addendum Map is available in the office of the city recorder.

TITLE 18

WATER AND SEWERS¹

CHAPTER

1. MISCELLANEOUS.
2. STORMWATER ORDINANCE.

CHAPTER 1

MISCELLANEOUS

SECTION

18-101. Unlawful disposition or transportation of sewage, etc.

18-101. Unlawful disposition or transportation of sewage, etc. It shall be unlawful for any person to draw off, or allow to run on any ground, street, or alley in the city, the contents, or any part thereof, of any cesspool or septic tank.

It shall be unlawful for any person, individually, or in combination with others, or any corporation to transport, or cause to be transported, offal, or raw sewage over and along any street within the city for the purpose of depositing said offal or raw sewage within the city. This section shall have no application to the removal of offal or raw sewage from any septic tank within the city as a result of cleaning or correcting an inoperative or defective septic tank. (1986 Code, § 8-101)

¹Municipal code references
Refuse disposal: title 17.

CHAPTER 2

STORMWATER ORDINANCE

SECTION

- 18-201. General provisions.
- 18-202. Definitions.
- 18-203. Land disturbance permits.
- 18-204. Waivers.
- 18-205. Stormwater system design and management standards.
- 18-206. Post construction.
- 18-207. Existing locations and developments.
- 18-208. Illicit discharges.
- 18-209. Enforcement.
- 18-210. Penalties.
- 18-211. Appeals.

18-201. General provisions. (1) Purpose. It is the purpose of this ordinance to:

(a) Protect, maintain, and enhance the environment of the City of Berry Hill and the public health, safety and the general welfare of the citizens of the city, by controlling discharges of pollutants to the city's stormwater system and to maintain and improve the quality of the receiving waters into which the stormwater outfalls flow, including, without limitation, lakes, rivers, streams, ponds, wetlands, and groundwater of the city.

(b) Enable the City of Berry Hill to comply with the National Pollution Discharge Elimination System permit (NPDES) and applicable regulations, 40 CFR § 122.26 for stormwater discharges.

(c) Allow the City of Berry Hill to exercise the powers granted in Tennessee Code Annotated, § 68-221-1105, which provides that, among other powers municipalities have with respect to stormwater facilities, is the power by ordinance or resolution to:

(i) Exercise general regulation over the planning, location, construction, and operation and maintenance of stormwater facilities in the municipality, whether or not owned and operated by the municipality;

(ii) Adopt any rules and regulations deemed necessary to accomplish the purposes of this statute, including the adoption of a system of fees for services and permits;

(iii) Establish standards to regulate the quantity of stormwater discharged and to regulate stormwater contaminants as may be necessary to protect water quality;

(iv) Review and approve plans and plats for stormwater management in proposed subdivisions, commercial developments, and any proposed land disturbing activities requiring a grading permit;

(v) Issue permits for stormwater discharges, or for the construction, alteration, extension, or repair of stormwater facilities;

(vi) Suspend or revoke permits when it is determined that the permittee has violated any applicable ordinance, resolution, or condition of the permit;

(vii) Regulate and prohibit discharges into stormwater facilities of sanitary, industrial, or commercial sewage or waters that have otherwise been contaminated; and

(viii) Expend funds to remediate or mitigate the detrimental effects of contaminated land or other sources of stormwater contamination, whether public or private.

(2) Administering entity. The City of Berry Hill shall administer the provisions of this ordinance. (as added by Ord. #2004-346, Sept. 2004)

18-202. Definitions. For the purpose of this chapter, the following definitions shall apply: Words used in the singular shall include the plural, and the plural shall include the singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined in this section shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

(1) "As built plans" means drawings depicting conditions as they were actually constructed.

(2) "Best management practices" or "BMPs" are physical, structural, and/or managerial practices that, when used singly or in combination, prevent or reduce pollution of water, that have been approved by the City of Berry Hill, and that have been incorporated by reference into this ordinance as if fully set out therein. [NOTE: See § 18-205(1) for recommended BMP manual.]

(3) "Channel" means a natural or artificial watercourse with a definite bed and banks that conducts flowing water continuously or periodically.

(4) "Community water" means any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wetlands, wells and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of the City of Berry Hill.

(5) "Contaminant" means any physical, chemical, biological, or radiological substance or matter in water.

(6) "Design storm event" means a hypothetical storm event, of a given frequency interval and duration, used in the analysis and design of a stormwater facility.

(7) "Discharge" means dispose, deposit, spill, pour, inject, seep, dump, leak or place by any means, or that which is disposed, deposited, spilled, poured, injected, seeped, dumped, leaked, or placed by any means including any direct or indirect entry of any solid or liquid matter into the municipal separate storm sewer system.

(8) "Disturb" means to alter the natural or predeveloped ground surface in such a way that the erosion potential of the ground surface is increased.

(9) "Easement" means an acquired privilege or right of use or enjoyment that a person, party, firm, corporation, municipality or other legal entity has in the land of another.

(10) "Erosion" means the removal of soil particles by the action of water, wind, ice or other geological agents, whether naturally occurring or acting in conjunction with or promoted by anthropogenic activities or effects.

(11) "Erosion and sediment control plan" means a written plan (including drawings or other graphic representations) that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.

(12) "Hotspot" ("priority area") means an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.

(13) "Illicit connections" means illegal and/or unauthorized connections to the municipal separate stormwater system whether or not such connections result in discharges into that system.

(14) "Illicit discharge" means any discharge to the municipal separate storm sewer system that is not composed entirely of stormwater and not specifically exempted under § 18-203(3).

(15) "Land disturbing activity" means any activity on property that results in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land-disturbing activities include, but are not limited to, development, re-development, demolition, construction, reconstruction, clearing, grading, filling, and excavation.

(16) "Maintenance" means any activity that is necessary to keep a stormwater facility in good working order so as to function as designed. Maintenance shall include complete reconstruction of a stormwater facility if reconstruction is needed in order to restore the facility to its original operational design parameters. Maintenance shall also include the correction of any problem on the site property that may directly impair the functions of the stormwater facility.

(17) "Maintenance agreement" means a document recorded in the land records that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

(18) "Municipal separate storm sewer system (MS4)" ("Municipal separate stormwater system") means the conveyances owned or operated by the

municipality for the collection and transportation of stormwater, including the roads and streets and their drainage systems, catch basins, curbs, gutters, ditches, man-made channels, and storm drains.

(19) "National Pollutant Discharge Elimination System permit" or "NPDES permit" means a permit issued pursuant to 33 U.S.C. 1342.

(20) "Off-site facility" means a structural BMP located outside the subject property boundary described in the permit application for land development activity.

(21) "On-site facility" means a structural BMP located within the subject property boundary described in the permit application for land development activity.

(22) "Peak flow" means the maximum instantaneous rate of flow of water at a particular point resulting from a storm event.

(23) "Person" means any and all persons, natural or artificial, including any individual, firm or association and any municipal or private corporation organized or existing under the laws of this or any other state or country.

(24) "Priority area" means "hot spot" as defined in § 18-202(12).

(25) "Runoff" means that portion of the precipitation on a drainage area that is discharged from the area into the municipal separate stormwater system.

(26) "Sediment" means solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice and has come to rest on the earth's surface either above or below sea level.

(27) "Sedimentation" means soil particles suspended in stormwater that can settle in stream beds and disrupt the natural flow of the stream.

(28) "Soils report" means a study of soils on a subject property with the primary purpose of characterizing and describing the soils. The soils report shall be prepared by a qualified soils engineer, who shall be directly involved in the soil characterization either by performing the investigation or by directly supervising employees.

(29) "Stabilization" means providing adequate measures, vegetative and/or structural, that will prevent erosion from occurring.

(30) "Stormwater" means stormwater runoff, snow melt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration and drainage.

(31) "Stormwater management" means the programs to maintain quality and quantity of stormwater runoff to pre-development levels.

(32) "Stormwater management facilities" means the drainage structures, conduits, ditches, combined sewers, sewers, and all device appurtenances by means of which stormwater is collected, transported, pumped, treated or disposed of.

(33) "Stormwater management plan" means the set of drawings and other documents that comprise all the information and specifications for the programs, drainagesystems, structures, BMPs, concepts and techniques

intended to maintain or restore quality and quantity of stormwater runoff to pre-development levels.

(34) "Stormwater runoff" means flow on the surface of the ground, resulting from precipitation.

(35) "Structural BMPs" means devices that are constructed to provide control of stormwater runoff.

(36) "Surface water" includes waters upon the surface of the earth in bounds created naturally or artificially including, but not limited to, streams, other water courses, lakes and reservoirs.

(37) "Watercourse" means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

(38) "Watershed" means all the land area that contributes runoff to a particular point along a waterway. (as added by Ord. #2004-346, Sept. 2004)

18-203. Land disturbance permits. (1) When required. (a) Every person will be required to obtain a land disturbance permit from the City of Berry Hill in the following cases:

(i) Land disturbing activity disturbs one (1) or more acres of land;

(ii) Land disturbing activity of less than one (1) acre of land if such activity is part of a larger common plan of development that affects one (1) or more acre of land;

(iii) Land disturbing activity of less than one (1) acre of land, if in the discretion of the City of Berry Hill such activity poses a unique threat to water, or public health or safety;

(iv) The creation and use of borrow pits.

(2) Building permit. No building permit shall be issued until the applicant has obtained a land disturbance permit where the same is required by this ordinance.

(3) Exemptions. The following activities are exempt from the permit requirement:

(a) Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.

(b) Existing nursery and agricultural operations conducted as a permitted main or accessory use.

(c) Any logging or agricultural activity that is consistent with an approved farm conservation plan or a timber management plan prepared or approved by the appropriate federal or state agency.

(d) Additions or modifications to existing single family structures provided that the land to be disturbed measures less than one (1) acre and poses no unique threat to water, or public health or safety.

(4) Application for a land disturbance permit. (a) Each application shall include the following:

- (i) Name of applicant;
- (ii) Business or residence address of applicant;
- (iii) Name, address and telephone number of the owner of the property of record in the office of the assessor of property;
- (iv) Address and legal description of subject property including the tax reference number and parcel number of the subject property;
- (v) Name, address and telephone number of the contractor and any subcontractor(s) who shall perform the land disturbing activity and who shall implement the erosion and sediment control plan;
- (vi) A statement indicating the nature, extent and purpose of the land disturbing activity including the size of the area for which the permit shall be applicable and a schedule for the starting and completion dates of the land disturbing activity.
- (vii) Where the property includes a sinkhole, the applicant shall obtain from the Tennessee Department of Environment and Conservation appropriate permits.

(viii) The applicant shall obtain from any other state or federal agency any other appropriate environmental permits that pertain to the property. However, the inclusion of those permits in the application shall not foreclose the City of Berry Hill from imposing additional development requirements and conditions, commensurate with this ordinance, on the development of property covered by those permits.

(b) Each application shall be accompanied by:

(i) A sediment and erosion control plan as described in § 18-205(5).

(ii) A stormwater management plan as described in § 18-205(4), providing for stormwater management during the land disturbing activity and after the activity has been completed.

(iii) Each application for a land disturbance permit shall be accompanied by payment of land disturbance permit and other stormwater management fees, which shall be set by resolution or ordinance.

(5) Review and approval of application. (a) The City of Berry Hill and its designated consultant will review each application for a land disturbance permit to determine its conformance with the provisions of this ordinance. Within 30 days after receiving an application, the City of Berry Hill or its designated engineering consultant shall provide one of the following responses in writing:

- (i) Approval of the permit application;
- (ii) Approval of the permit application, subject to such reasonable conditions as may be necessary to secure substantially

the objectives of this ordinance, and issue the permit subject to these conditions; or

(iii) Denial of the permit application, indicating the reason(s) for the denial.

(b) If the City of Berry Hill has granted conditional approval of the permit, the applicant shall submit a revised plan that conforms to the conditions established by the City of Berry Hill. However, the applicant shall be allowed to proceed with his land disturbing activity so long as it conforms to conditions established by the City of Berry Hill.

(c) No development plans will be released until the land disturbance permit has been approved.

(6) Permit duration. Every land disturbance permit shall expire and become null and void if substantial work authorized by such permit has not commenced within one hundred eighty (180) calendar days of issuance, or is not complete within eighteen (18) months from the date of the commencement of construction.

(7) Notice of construction. The applicant must notify the City of Berry Hill ten (10) working days in advance of the commencement of construction. Regular inspections of the stormwater management system construction shall be conducted by the City of Berry Hill. All inspections shall be documented and written reports prepared that contain the following information:

(i) The date and location of the inspection;

(ii) Whether construction is in compliance with the approved stormwater management plan;

(iii) Variations from the approved construction specifications;

(iv) Any violations that exist.

(8) Performance bonds. (a) The City of Berry Hill may, at its discretion, require the submittal of a performance security or performance bond prior to issuance of a permit in order to ensure that the stormwater practices are installed by the permit holder as required by the approved stormwater management plan. The amount of the installation performance security or performance bond shall be the total estimated construction cost of the structural BMPs approved under the permit plus any reasonably foreseeable additional related costs, e.g., for damages or enforcement. The performance security shall contain forfeiture provisions for failure to complete work specified in the stormwater management plan. The applicant shall provide an itemized construction cost estimate complete with unit prices which shall be subject to acceptance, amendment or rejection by the City of Berry Hill. Alternatively the City of Berry Hill shall have the right to calculate the cost of construction cost estimates.

(b) The performance security or performance bond shall be released in full only upon submission of as-built plans and written

certification by a registered professional engineer licensed to practice in Tennessee that the structural BMP(s) have been installed in accordance with the approved plan and other applicable provisions of this ordinance. The City of Berry Hill will make a final inspection of the structural BMP(s) to ensure that they are in compliance with the approved plan and the provisions of this ordinance. Provisions for a partial pro-rata release of the performance security or performance bond based on the completion of various development stages can be made at the discretion of the City of Berry Hill. (as added by Ord. #2004-346, Sept. 2004)

18-204. Waivers. (1) General. Every applicant shall provide for stormwater management as required by this ordinance, unless a written request is filed to waive this requirement. Requests to waive the stormwater management plan requirements shall be submitted to the City of Berry Hill for approval.

(2) Conditions for waiver. The minimum requirements for stormwater management may be waived in whole or in part upon written request of the applicant, provided that at least one of the following conditions applies:

(a) It can be demonstrated that the proposed development is not likely to impair attainment of the objectives of this ordinance.

(b) Alternative minimum requirements for on-site management of stormwater discharges have been established in a stormwater management plan that has been approved by the City of Berry Hill.

(c) Provisions are made to manage stormwater by an off-site facility. The off-site facility must be in place and designed to provide the level of stormwater control that is equal to or greater than that which would be afforded by on-site practices. Further, the facility must be operated and maintained by an entity that is legally obligated to continue the operation and maintenance of the facility.

(3) Downstream damage, etc. prohibited. In order to receive a waiver, the applicant must demonstrate to the satisfaction of the City of Berry Hill that the waiver will not lead to any of the following conditions downstream:

(a) Deterioration of existing culverts, bridges, dams, and other structures;

(b) Degradation of biological functions or habitat;

(c) Accelerated streambank or streambed erosion or siltation;

(d) Increased threat of flood damage to public health, life or property.

(4) Land disturbance permit not to be issued where waiver requested. No land disturbance permit shall be issued where a waiver has been requested until the waiver is granted. If no waiver is granted, the plans must be resubmitted with a stormwater management plan. (as added by Ord. #2004-346, Sept. 2004)

18-205. Stormwater system design and management standards.

(1) Stormwater design or BMP manual. (a) Adoption. The municipality adopts as its stormwater design and best management practices (BMP) manual the following publications, which are incorporated by reference in this ordinance as is fully set out herein:

(i) TDEC Sediment and Erosion Control Manual

(ii) TDEC Manual for Post Construction [Entitled Guide to the Selection & Design of Stormwater Best Management Practices (BMPs)]

(iii) City of Berry Hill Supplemental Manual

(b) These manuals includes a list of acceptable BMPs including the specific design performance criteria and operation and maintenance requirements for each stormwater practice. These manuals may be updated and expanded from time to time, at the discretion of the governing body of the municipality, upon the recommendation of the City of Berry Hill, based on improvements in engineering, science, monitory and local maintenance experience. Stormwater facilities that are designed, constructed and maintained in accordance with these BMP criteria will be presumed to meet the minimum water quality performance standards.

(2) General performance criteria for stormwater management. Unless granted a waiver or judged by the City of Berry Hill to be exempt, the following performance criteria shall be addressed for stormwater management at all sites:

(a) All site designs shall control the peak flow rates of stormwater discharge associated with design storms specified in this ordinance or in the BMP manual and reduce the generation of post construction stormwater runoff to pre-construction levels. These practices should seek to utilize pervious areas for stormwater treatment and to infiltrate stormwater runoff from driveways, sidewalks, rooftops, parking lots, and landscaped areas to the maximum extent practical to provide treatment for both water quality and quantity.

(b) To protect stream channels from degradation, specific channel protection criteria shall be provided as prescribed in the BMP manual.

(c) Stormwater discharges to critical areas with sensitive resources (i.e., cold water fisheries, shellfish beds, swimming beaches, recharge areas, water supply reservoirs) may be subject to additional performance criteria, or may need to utilize or restrict certain stormwater management practices.

(d) Stormwater discharges from "hot spots" may require the application of specific structural BMPs and pollution prevention practices.

(e) Prior to or during the site design process, applicants for land disturbance permits shall consult with the City of Berry Hill to determine if they are subject to additional stormwater design requirements.

(f) The calculations for determining peak flows as found in the BMP manual shall be used for sizing all stormwater facilities. Other hydrological methods of determining peak runoff may be substituted; however, they will be subject to the City of Berry Hill's engineering consultant's review for appropriateness.

(3) Minimum control requirements. (a) Stormwater designs shall meet the multi-stage storm frequency storage requirements as identified in the supplemental BMP manual unless the City of Berry Hill has granted the applicant a full or partial waiver for a particular BMP under § 18-204.

(b) If hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the City of Berry Hill may impose any and all additional requirements deemed necessary to control the volume, timing, and rate of runoff.

(4) Stormwater management plan requirements. The stormwater management plan shall include sufficient information to allow the City of Berry Hill to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site, both present and future, on the water resources, and the effectiveness and acceptability of the measures proposed for managing stormwater generated at the project site. To accomplish this goal the stormwater management plan shall include the following:

(a) Topographic Base Map: A 1" = 50 feet (or other more appropriate scale approved by the City of Berry Hill) topographic base map of the site which extends a minimum of 100 feet beyond the limits of the proposed development and indicates:

(i) Existing surface water drainage including streams, ponds, culverts, ditches, sink holes, wetlands; and the type, size, elevation, etc., of nearest upstream and downstream drainage structures;

(ii) Current land use including all existing structures, locations of utilities, roads, and easements;

(iii) All other existing significant natural and artificial features;

(iv) Proposed land use with tabulation of the percentage of surface area to be adapted to various uses; drainage patterns; locations of utilities, roads and easements; the limits of clearing and grading;

(v) Proposed structural BMPs;

(vi) A written description of the site plan and justification of proposed changes in natural conditions may also be required.

(b) Calculations: Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in the supplemental BMP manual. These calculations must show that the proposed stormwater management measures are capable of controlling runoff from the site in compliance with this ordinance and the guidelines of the BMP manual. Such calculations shall include:

- (i) A description of the design storm frequency, duration, and intensity where applicable;
- (ii) Time of concentration;
- (iii) Soil curve numbers or runoff coefficients including assumed soil moisture conditions;
- (iv) Peak runoff rates and total runoff volumes for each watershed area;
- (v) Infiltration rates, where applicable;
- (vi) Culvert, stormwater sewer, ditch and/or other stormwater conveyance capacities;
- (vii) Flow velocities;
- (viii) Data on the increase in rate and volume of runoff for the design storms referenced in the supplemental BMP manual; and
- (ix) Documentation of sources for all computation methods and field test results.

(c) Soils information: If a stormwater management control measure depends on the hydrologic properties of soils (e.g., infiltration basins), then a soils report shall be submitted. The soils report shall be based on on-site boring logs or soil pit profiles and soil survey reports. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soil types present at the location of the control measure.

(d) Maintenance and repair plan: The design and planning of all stormwater management facilities shall include detailed maintenance and repair procedures to ensure their continued performance. These plans will identify the parts or components of a stormwater management facility that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan. A permanent elevation benchmark shall be identified in the plans to assist in the periodic inspection of the facility.

(e) Landscaping plan: The applicant must present a detailed plan for management of vegetation at the site after construction is finished, including who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that

adequate vegetative cover is preserved. Where it is required by the BMP, this plan must be prepared by a registered landscape architect licensed in Tennessee.

(f) Maintenance easements: The applicant must ensure access to the site for the purpose of inspection and repair by securing all the maintenance easements needed. These easements must be binding on the current property owner and all subsequent owners of the property and must be properly recorded in the land record.

(g) Post-construction maintenance agreement:

(i) The owner of property to be served by an on-site stormwater management facility must execute an inspection and maintenance agreement that shall operate as a deed restriction binding on the current property owner and all subsequent property owners.

(ii) The maintenance agreement shall:

(A) Assign responsibility for the maintenance and repair of the stormwater facility to the owner of the property upon which the facility is located and be recorded as such on the plat for the property by appropriate notation.

(B) Provide for a periodic inspection by the property owner for the purpose of documenting maintenance and repair needs and ensure compliance with the purpose and requirements of this ordinance. The agreement shall also provide that the City of Berry Hill may require additional inspections to be conducted by a registered professional engineer licensed to practice in the State of Tennessee who will submit a sealed report of the inspection to the City of Berry Hill, and that the cost of such inspections shall be paid by the property owner. It shall also grant permission to the city and its agents to enter the property at reasonable times and to inspect the stormwater facility to ensure that it is being properly maintained.

(C) Provide that the minimum maintenance and repair needs include, but are not limited to: the removal of silt, litter and other debris, the cutting of grass, grass cuttings and vegetation removal, and the replacement of landscape vegetation, in detention and retention basins, and inlets and drainage pipes and any other stormwater facilities. It shall also provide that the property owner shall be responsible for additional maintenance and repair needs consistent with the needs and standards outlined in the BMP manual.

(D) Provide that maintenance needs must be addressed in a timely manner, on a schedule subject to the review and/or amendments by the City of Berry Hill.

(E) Provide that if the property is not maintained or repaired within the prescribed schedule, the City of Berry Hill shall perform the maintenance and repair at its expense, and bill the same to the property owner. The maintenance agreement shall also provide that the City of Berry Hill's cost of performing the maintenance shall be a lien against the property.

(iii) The municipality shall have the discretion to accept the dedication of any existing or future stormwater management facility, provided such facility meets the requirements of this ordinance, and includes adequate and perpetual access and sufficient areas, by easement or otherwise, for inspection and regular maintenance. Any stormwater facility accepted by the municipality must also meet the municipality's construction standards and any other standards and specifications that apply to the particular stormwater facility in question.

(h) Sediment and erosion control plans: The applicant must prepare a sediment and erosion control plan for all construction activities that complies with § 18-205(5) below.

(5) Sediment and erosion control plan requirements. The sediment and erosion control plan shall accurately describe the potential for soil erosion and sedimentation problems resulting from land disturbing activity and shall explain and illustrate the measures that are to be taken to control these problems. The length and complexity of the plan is to be commensurate with the size of the project, severity of the site condition, and potential for off-site damage. The plan shall be sealed by a registered professional engineer licensed in the state of Tennessee. The plan shall also conform to the requirements found in the BMP manual, and shall include at least the following:

(a) Project description. Briefly describe the intended project and proposed land disturbing activity including number of units and structures to be constructed and infrastructure required.

(b) A topographic map with contour intervals of five (5) feet or less showing present conditions and proposed contours resulting from land disturbing activity.

(c) All existing drainage ways, including intermittent and wet-weather. Include any designated floodways or flood plains.

(d) A general description of existing land cover. Individual trees and shrubs do not need to be identified.

(e) Stands of existing trees as they are to be preserved upon project completion, specifying their general location on the property. Differentiation shall be made between existing trees to be preserved,

trees to be removed and proposed planted trees. Tree protection measures must be identified, and the diameter of the area involved must also be identified on the plan and shown to scale. Information shall be supplied concerning the proposed destruction of exceptional and historic trees in setbacks and buffer strips, where they exist. Complete landscape plans may be submitted separately. The plan must include the sequence of implementation for tree protection measures.

(f) Approximate limits of proposed clearing, grading and filling.

(g) Approximate flows of existing stormwater leaving any portion of the site.

(h) A general description of existing soil types and characteristics and any anticipated soil erosion and sedimentation problems resulting from existing characteristics.

(i) Location, size and layout of proposed stormwater and sedimentation control improvements.

(j) Proposed drainage network.

(k) Proposed drain tile or waterway sizes.

(l) 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 plan must address the adequacy of outfalls from the development: when water is concentrated, what is the capacity of waterways, if any, accepting stormwater off-site; and what measures, including infiltration, sheeting into buffers, etc., are going to be used to prevent the scouring of waterways and drainage areas off-site, etc.

(m) The projected sequence of work represented by the grading, drainage and sedimentation and erosion control plans as related to other major items of construction, beginning with the initiation of excavation and including the construction of any sediment basins or retention facilities or any other structural BMPs.

(n) Specific remediation measures to prevent erosion and sedimentation run-off. Plans shall include detailed drawings of all control measures used; stabilization measures including vegetation and non-vegetation measures, both temporary and permanent, will be detailed. Detailed construction notes and a maintenance schedule shall be included for all control measures in the plan.

(o) Specific details for: the construction of rock pads, wash down pads, and settling basins for controlling erosion; road access points; eliminating or keeping soil, sediment, and debris on streets and public ways at a level acceptable to the City of Berry Hill. Soil, sediment, and debris brought onto streets and public ways must be removed by the end of the work day by machine, broom or shovel to the satisfaction of the

City of Berry Hill. Failure to remove the sediment, soil or debris shall be deemed a violation of this ordinance.

(p) Proposed structures; location (to the extent possible) and identification of any proposed additional buildings, structures or development on the site.

(q) A description of on-site measures to be taken to recharge surface water into the ground water system through infiltration. (as added by Ord. #2004-346, Sept. 2004)

18-206. Post construction. (1) As built plans. All applicants are required to submit actual as built plans for any structures located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be sealed by a registered professional engineer licensed to practice in Tennessee. A final inspection by the City of Berry Hill is required before any performance security or performance bond will be released. The City of Berry Hill shall have the discretion to adopt provisions for a partial pro-rata release of the performance security or performance bond on the completion of various stages of development. In addition, occupation permits shall not be granted until corrections to all BMPs have been made and accepted by the City of Berry Hill.

(2) Landscaping and stabilization requirements. (a) Any area of land from which the natural vegetative cover has been either partially or wholly cleared by development activities shall be revegetated according to a schedule approved by the City of Berry Hill. The following criteria shall apply to revegetation efforts:

(i) Reseeding must be done with an annual or perennial cover crop accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until such time as the cover crop is established over ninety percent (90%) of the seeded area.

(ii) Replanting with native woody and herbaceous vegetation must be accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until the plantings are established and are capable of controlling erosion.

(iii) Any area of revegetation must exhibit survival of a minimum of seventy-five percent (75%) of the cover crop throughout the year immediately following revegetation. Revegetation must be repeated in successive years until the minimum seventy-five percent (75%) survival for one (1) year is achieved.

(b) In addition to the above requirements, a landscaping plan must be submitted with the final design describing the vegetative stabilization and management techniques to be used at a site after construction is completed. This plan will explain not only how the site

will be stabilized after construction, but who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved.

(3) Inspection of stormwater management facilities. Periodic inspections of facilities shall be performed as provided for in § 18-205(4)(g)(ii)(B).

(4) Records of installation and maintenance activities. Parties responsible for the operation and maintenance of a stormwater management facility shall make records of the installation of the stormwater facility, and of all maintenance and repairs to the facility, and shall retain the records for at least three (3) years. These records shall be made available to the City of Berry Hill during inspection of the facility and at other reasonable times upon request.

(5) Failure to meet or maintain design or maintenance standards. If a responsible party fails or refuses to meet the design or maintenance standards required for stormwater facilities under this ordinance, the City of Berry Hill, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the stormwater management facility becomes a danger to public safety or public health, the City of Berry Hill shall notify in writing the party responsible for maintenance of the stormwater management facility. Upon receipt of that notice, the responsible person shall have ten (10) days to effect maintenance and repair of the facility in an approved manner. In the event that corrective action is not undertaken within that time, the City of Berry Hill may take necessary corrective action. The cost of any action by the City of Berry Hill under this section shall be charged to the responsible party. (as added by Ord. #2004-346, Sept. 2004)

18-207. Existing locations and developments. (1) Requirements for all existing locations and developments. The following requirements shall apply to all locations and development at which land disturbing activities have occurred previous to the enactment of this ordinance:

(a) Denuded areas must be vegetated or covered under the standards and guidelines specified in the BMP manual and on a schedule acceptable to the City of Berry Hill.

(b) Cuts and slopes must be properly covered with appropriate vegetation and/or retaining walls constructed.

(c) Drainage ways shall be properly covered in vegetation or secured with rip-rapp, channel lining, etc., to prevent erosion.

(d) Trash, junk, rubbish, etc. shall be cleared from drainage ways.

(e) Stormwater runoff shall be controlled to the extent reasonable to prevent pollution of local waters. Such control measures may include, but are not limited to, the following:

(i) Ponds

(A) Detention pond

- (B) Extended detention pond
- (C) Wet pond
- (D) Alternative storage measures
- (ii) Constructed wetlands
- (iii) Infiltration systems
 - (A) Infiltration/percolation trench
 - (B) Infiltration basin
 - (C) Drainage (recharge) well
 - (D) Porous pavement
- (iv) Filtering systems
 - (A) Catch basin inserts/media filter
 - (B) Sand filter
 - (C) Filter/absorption bed
 - (D) Filter and buffer strips
- (v) Open channel
 - (A) Swale

(2) Requirements for existing problem locations. The City of Berry Hill shall in writing notify the owners of existing locations and developments of specific drainage, erosion or sediment problem affecting such locations and developments, and the specific actions required to correct those problems. The notice shall also specify a reasonable time for compliance.

(3) Inspection of existing facilities. The City of Berry Hill may, to the extent authorized by state and federal law, establish inspection programs to verify that all stormwater management facilities, including those built before as well as after the adoption of this ordinance, are functioning within design limits. These inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of the municipality's NPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other BMPs.

(4) Corrections of problems subject to appeal. Corrective measures imposed by the city building official under this section are subject to appeal under § 18-211 of this ordinance. (as added by Ord. #2004-346, Sept. 2004)

18-208. Illicit discharges. (1) Scope. This section shall apply to all water generated on developed or undeveloped land entering the municipality's separate storm sewer system.

(2) Prohibition of illicit discharges. No person shall introduce or cause to be introduced into the municipal separate storm sewer system any discharge that is not composed entirely of stormwater. The commencement, conduct or continuance of any non-stormwater discharge to the municipal separate storm sewer system is prohibited except as described as follows:

- (a) Uncontaminated discharges from the following sources:
 - (i) Water line flushing or other potable water sources,
 - (ii) Landscape irrigation or lawn watering with potable water,
 - (iii) Diverted stream flows,
 - (iv) Rising ground water,
 - (v) Groundwater infiltration to storm drains,
 - (vi) Pumped groundwater,
 - (vii) Foundation or footing drains,
 - (viii) Crawl space pumps,
 - (ix) Air conditioning condensation,
 - (x) Springs,
 - (xi) Non-commercial washing of vehicles,
 - (xii) Natural riparian habitat or wet-land flows,
 - (xiii) Swimming pools (if dechlorinated - typically less than one PPM chlorine),
 - (xiv) Fire fighting activities, and
 - (xv) Any other uncontaminated water source.

(b) Discharges specified in writing by the City of Berry Hill as being necessary to protect public health and safety.

(c) Dye testing is an allowable discharge if the City of Berry Hill has so specified in writing.

(3) Prohibition of illicit connections. (a) The construction, use, maintenance or continued existence of illicit connections to the separate municipal storm sewer system is prohibited.

(b) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(4) Reduction of stormwater pollutants by the use of best management practices. Any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at the person's expense, the BMPs necessary to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of

stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.

(5) Notification of spills. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting in, or may result in, illicit discharges or pollutants discharging into stormwater, the municipal separate storm sewer system, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, the person shall notify the City of Berry Hill in person or by telephone or facsimile no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the City of Berry Hill within three (3) business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least 3 years. (as added by Ord. #2004-346, Sept. 2004)

18-209. Enforcement. (1) Enforcement authority. The city building official or his designees shall have the authority to issue notices of violation and citations, and to impose the civil penalties provided in this section.

(2) Notification of violation. (a) Written notice. Whenever the city building official finds that any permittee or any other person discharging stormwater has violated or is violating this ordinance or a permit or order issued hereunder, the city building official may serve upon such person written notice of the violation. Within ten (10) days 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 to the city building official. Submission of this plan in no way relieves the discharger of liability for any violations occurring before or after receipt of the notice of violation.

(b) Consent orders. The city building official is empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the person to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to paragraphs (d) and (e) below.

(c) Show cause hearing. The city building official may order any person who violates this ordinance or permit or order issued

hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the person specifying the time and place for the meeting, the proposed enforcement action and the reasons for such action, and a request that the violator show cause why this proposed enforcement action should not 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.

(d) Compliance order. When the city building official finds that any person has violated or continues to violate this ordinance or a permit or order issued thereunder, he may issue an order to the violator directing that, following a specific time period, adequate structures, devices, be installed or procedures implemented and properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the construction of appropriate structures, installation of devices, self-monitoring, and management practices.

(e) Cease and desist orders. When the city building official finds that any person has violated or continues to violate this ordinance or any permit or order issued hereunder, the director may issue an order to cease and desist all such violations and direct those persons in noncompliance to:

- (i) Comply forthwith; or
- (ii) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

(3) Conflicting standards. Whenever there is a conflict between any standard contained in this ordinance and in the BMP manual adopted by the municipality under this ordinance, the strictest standard shall prevail. (as added by Ord. #2004-346, Sept. 2004)

18-210. Penalties. (1) Violations. Any person who shall commit any act declared unlawful under this ordinance, who violates any provision of this ordinance, who violates the provisions of any permit issued pursuant to this ordinance, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action by the City of Berry Hill, shall be guilty of a civil offense.

(2) Penalties. Under the authority provided in Tennessee Code Annotated, § 68-221-1106, the municipality declares that any person violating the provisions of this ordinance may be assessed a civil penalty by the City of Berry Hill of not less than fifty dollars (\$50.00) and not more than five thousand dollars (\$5,000.00) or such lesser amount as may be allowed by law per day for each day of violation. Each day of violation shall constitute a separate violation.

(3) Measuring civil penalties. In assessing a civil penalty, the city building official may consider:

- (a) The harm done to the public health or the environment;
- (b) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;
- (c) The economic benefit gained by the violator;
- (d) The amount of effort put forth by the violator to remedy this violation;
- (e) Any unusual or extraordinary enforcement costs incurred by the municipality;
- (f) The amount of penalty established by ordinance or resolution for specific categories of violations; and
- (g) Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.

(4) Recovery of damages and costs. In addition to the civil penalty in subsection (2) above, the municipality may recover;

- (a) All damages proximately caused by the violator to the municipality, which may include any reasonable expenses incurred in investigating violations of, and enforcing compliance with, this ordinance, or any other actual damages caused by the violation.
- (b) The costs of the municipality's maintenance of stormwater facilities when the user of such facilities fails to maintain them as required by this ordinance.

(5) Other remedies. The municipality may bring legal action to enjoin the continuing violation of this ordinance, and the existence of any other remedy, at law or equity, shall be no defense to any such actions.

(6) Remedies cumulative. The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action, civil or criminal, that one (1) or more of the remedies set forth herein has been sought or granted. (as added by Ord. #2004-346, Sept. 2004)

18-211. Appeals. Pursuant to Tennessee Code Annotated, § 68-221-1106(d), any person aggrieved by the imposition of a civil penalty or damage assessment as provided by this ordinance may appeal said penalty or damage assessment to the municipality's governing body.

(1) Appeals to be in writing. The appeal shall be in writing and filed with the municipal recorder or clerk within fifteen (15) days after the civil penalty and/or damage assessment is served in any manner authorized by law.

(2) Public hearing. Upon receipt of an appeal, the municipality's governing body shall hold a public hearing within thirty (30) days. Ten (10) days prior notice of the time, date, and location of said hearing shall be published in a daily newspaper of general circulation. Ten (10) days notice by registered mail shall also be provided to the aggrieved party, such notice to be

sent to the address provided by the aggrieved party at the time of appeal. The decision of the governing body of the municipality shall be final.

(3) Appealing decisions of the municipality's governing body. Any alleged violator may appeal a decision of the municipality's governing body pursuant to the provisions of Tennessee Code Annotated, title 27, chapter 8. (as added by Ord. #2004-346, Sept. 2004)

TITLE 19

ELECTRICITY AND GAS

[RESERVED FOR FUTURE USE]

TITLE 20

MISCELLANEOUS

[RESERVED FOR FUTURE USE]

Parallel Reference Table

Subject	Old code §	New code §
<u>BOARD OF COMMISSIONERS</u>		
Time and place of regular meetings	1-101	1-101
Order of business	1-102	1-102
General rules of order	1-103	1-103
<u>MAYOR</u>		
Generally supervises town's affairs	1-201	1-201
Executes town's contracts	1-202	1-202
<u>RECORDER</u>		
To be bonded	1-301	1-301
To keep minutes, etc.	1-302	1-302
To perform general administrative duties, etc.	1-303	1-303
<u>POLICE AND ARREST</u>		
Policemen subject to chief's orders	1-401	6-101
Policemen to preserve law and order, etc	1-402	6-102
Policemen to wear uniforms and be armed	1-403	6-103
When policemen to make arrests	1-404	6-104
Disposition of persons arrested	1-405	6-105
Summonses in lieu of arrest	1-406	6-106
Police department records	1-407	6-107
<u>CITY COURT</u>		
City judge	1-501	3-101
Maintenance of docket	1-502	3-201
Issuance of arrest warrants	1-503	3-301
Issuance of summonses	1-504	3-302
Issuance of subpoenas	1-505	3-303
Trial and disposition of cases	1-506	3-205
Appearance bonds authorized	1-507	3-401
Imposition of fines, penalties, and costs	1-508	3-202
Appeals	1-509	3-402

Parallel Reference Table

Subject	Old code §	New code §
Bond amounts, conditions, and forms	1-510	3-403
Disposition and report of fines, penalties, and costs	1-511	3-203
Disturbance of proceedings	1-512	3-204
<u>WORKHOUSE</u>		
County workhouse to be used	1-601	6-201
Inmates to be worked	1-602	6-202
Compensation of inmates	1-603	6-203
<u>SOCIAL SECURITY - CITY PERSONNEL</u>		
Policy and purpose as to coverage	1-701	4-101
Necessary agreements to be executed	1-702	4-102
Withholdings from salaries or wages	1-703	4-103
Appropriations for employer's contributions	1-704	4-104
Records and reports	1-705	4-105
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Applicability of chapter	1-801	4-201
Vacation leave	1-802	4-202
Sick leave	1-803	4-203
Leave records	1-804	4-204
<u>MISCELLANEOUS REGULATIONS - CITY PERSONNEL</u>		
Purpose	1-901	4-301
Acceptance of gratuities	1-902	4-302
Outside employment	1-903	4-303
Political activity	1-904	4-304
Use of municipal time, facilities, etc.	1-905	4-305
Use of position	1-906	4-306
Strikes and unions	1-907	4-307
<u>OCCUPATIONAL SAFETY AND HEALTH PROGRAM</u>		
Title	1-1001	4-401
Health officer designated program director	1-1002	4-402

Parallel Reference Table

Subject	Old code §	New code §
Program standards	1-1003	4-403
Effective date of plan	1-1004	4-404
<u>INTOXICATING LIQUORS</u>		
Prohibited generally	2-101	8-101
<u>BEER</u>		
Beer board established	2-201	8-201
Meetings of the beer board	2-202	8-202
Record of beer board proceedings to be kept	2-203	8-203
Requirements for beer board quorum and action	2-204	8-204
Powers and duties of the beer board	2-205	8-205
“Beer” defined	2-206	8-206
Permit required for engaging in beer business	2-207	8-207
Beer permits shall be restrictive	2-208	8-208
Issuance of permits to aliens prohibited	2-209	8-209
Interference with public health, safety, and morals prohibited	2-210	8-210
Issuance of permits to persons convicted of certain crimes prohibited	2-211	8-211
Prohibited conduct or activities by beer permit holders	2-212	8-212
Revocation of beer permits	2-213	8-213
<u>ANIMALS AND FOWLS - IN GENERAL</u>		
Running at large prohibited	3-101	10-101
Keeping near a residence or business restricted	3-102	10-102
Pen or enclosure to be kept clean	3-103	10-103
Adequate food, water, and shelter, etc., to be provided	3-104	10-104
Keeping in such manner as to become a nuisance	3-105	10-105
Cruel treatment prohibited	3-106	10-106
Seizure and disposition of animals	3-107	10-107

Parallel Reference Table

Subject	Old code §	New code §
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<u>DOGS</u>		
Rabies vaccination and registration required	3-201	10-201
Dogs to wear tags	3-202	10-202
Running at large prohibited	3-203	10-203
Vicious dogs to be securely restrained	3-204	10-204
Noisy dogs prohibited	3-205	10-205
Confinement of dogs suspected of being rabid	3-206	10-206
Seizure and disposition of dogs	3-207	10-207
<u>BUILDING CODE</u>		
Building code adopted	4-101	12-101
Modifications	4-102	12-102
Available in recorder's office	4-103	12-103
Violations	4-104	12-104
<u>PLUMBING CODE</u>		
Plumbing code adopted	4-201	12-201
Modifications	4-202	12-202
Available in recorder's office	4-203	12-203
Violations	4-204	12-204
<u>ELECTRICAL CODE</u>		
Electrical code adopted	4-301	12-301
Available in recorder's office	4-302	12-302
Permit required for doing electrical work	4-303	12-303
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Enforcement	4-305	12-305
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<u>GAS CODE</u>		
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Parallel Reference Table

Subject	Old code §	New code §
Bond and license	4-404	12-404
Gas inspector and assistants	4-405	12-405
Powers and duties of inspector	4-406	12-406
Permits	4-407	12-407
Inspections	4-408	12-408
Certificates	4-409	12-409
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Violations and penalties	4-411	12-411
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Housing code adopted	4-501	12-501
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PEDDLERS, SOLICITORS, ETC.

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Exemptions	5-202	9-202
Application for permit	5-203	9-203
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Appeal	5-205	9-205
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Use of streets	5-208	9-208
Exhibition of permit	5-209	9-209
Policemen to enforce	5-210	9-210
Revocation or suspension of permit	5-211	9-211
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Expiration and renewal of permit	5-213	9-213

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Parallel Reference Table

Subject	Old code §	New code §
Permit required	5-301	9-301
Prerequisites for a permit	5-302	9-302
Denial of a permit	5-303	9-303
Exhibition of permit	5-304	9-304
<u>TAXICABS</u>		
Taxicab franchise and privilege license required	5-401	9-401
Requirements as to application and hearing	5-402	9-402
Liability insurance or bond required	5-403	9-403
Revocation or suspension of franchise	5-404	9-404
Mechanical condition of vehicles	5-405	9-405
Cleanliness of vehicles	5-406	9-406
Inspection of vehicles	5-407	9-407
License and permit required for drivers	5-408	9-408
Qualifications for driver's permit	5-409	9-409
Revocation or suspension of driver's permit	5-410	9-410
Drivers not to solicit business	5-411	9-411
Parking restricted	5-412	9-412
Drivers to use direct routes	5-413	9-413
Taxicabs not to be used for illegal purposes	5-414	9-414
Miscellaneous prohibited conduct by drivers	5-415	9-415
Transportation of more than one passenger at the same time	5-416	9-416
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<u>POOL ROOMS</u>		
Prohibited in residential areas	5-501	9-501
Hours of operation regulated	5-502	9-502
Minors to be kept out; exception	5-503	9-503
Gambling, etc., not to be allowed	5-504	9-504
<u>FINANCE AND TAXATION - MISCELLANEOUS</u>		
Official depositories for city funds	6-101	5-101

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Parallel Reference Table

Subject	Old code §	New code §
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When delinquent - penalty and interest	6-202	5-202
<u>PRIVILEGE TAXES</u>		
Tax levied	6-301	5-301
License required	6-302	5-302
<u>WHOLESALE BEER TAX</u>		
To be collected	6-401	5-401
<u>FIRE DISTRICT</u>		
Fire district described	7-101	7-101
<u>FIRE CODE</u>		
Fire code adopted	7-201	7-201
Enforcement	7-202	7-202
Definition of "municipality"	7-203	7-203
Storage of explosives, flammable liquids, etc.	7-204	7-204
Gasoline trucks	7-205	7-205
Variances	7-206	7-206
Violations and penalties	7-207	7-207
<u>FIRE DEPARTMENT</u>		
Establishment, equipment, and membership	7-301	7-301
Objectives	7-302	7-302
Organization, rules, and regulations	7-303	7-303
Records and reports	7-304	7-304
Tenure and compensation of members	7-305	7-305
Chief responsible for training and maintenance	7-306	7-306
Chief to be assistant to state officer	7-308	7-307
<u>FIRE SERVICE OUTSIDE TOWN LIMITS</u>		
Restrictions on fire service outside town limits	7-307	7-401
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Parallel Reference Table

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Communicable diseases	8-103	13-109
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Spitting on streets, etc.	8-110	13-107
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Refuse defined	8-201	17-101
Premises to be kept clean	8-202	17-102
Storage	8-203	17-103
Location of containers	8-204	17-104
Disturbing containers	8-205	17-105
Collection	8-206	17-106
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<u>SEWAGE AND HUMAN EXCRETA DISPOSAL</u>		
Definitions	8-301	18-101
Places required to have sanitary disposal methods	8-302	18-102
When a connection to the public sewer is required	8-303	18-103
When a septic tank shall be used	8-304	18-104
Registration and records of septic tank cleaners, etc.	8-305	18-105
Use of pit privy or other method of disposal	8-306	18-106
Approval and permit required for septic tanks, privies, etc.	8-307	18-107
Owner to provide disposal facilities	8-308	18-108
Occupant to maintain disposal facilities	8-309	18-109

Parallel Reference Table

Subject	Old code §	New code §
Only specified methods of disposal to be used	8-310	18-110
Discharge into watercourses restricted	8-311	18-111
Pollution of ground water prohibited	8-312	18-112
Enforcement of chapter	8-313	18-113
Carnivals, circuses, etc.	8-314	18-114
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Definitions	8-401	18-201
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Statement required	8-404	18-204
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Right of entry for inspections	8-406	18-206
Correction of existing violations	8-407	18-207
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Following emergency vehicles	9-104	15-203
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Parallel Reference Table

Subject	Old code §	New code §
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Presumption with respect to traffic - control signs, etc.	9-116	15-111
School safety patrols	9-117	15-112
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Riding on outside of vehicles	9-121	15-115
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Issuance of traffic citations	9-601	15-701
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Misdemeanors of the state adopted	10-101	11-101
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Impersonating a government officer or employee	10-211	11-501
Weapons and firearms generally	10-212	11-603
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Promotion of gambling	10-216	11-1102
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Parallel Reference Table

Subject	Old code §	New code §
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Obstructing streets, alleys, or sidewalks prohibited	12-101	16-101
Trees projecting over streets, etc., regulated	12-102	16-102
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Projecting signs and awnings, etc., restricted	12-104	16-104
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Gates or doors opening over streets, alleys, or sidewalks prohibited	12-106	16-106
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Obstruction of drainage ditches	12-108	16-108
Abutting occupants to keep sidewalks clean, etc.	12-109	16-109
Parades, etc., regulated	12-110	16-110
Operation of trains at crossings regulated	12-111	16-111
Animals and vehicles on sidewalks	12-112	16-112
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<u>EXCAVATIONS</u>		
Permit required	12-201	16-201
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Manner of excavating - barricades, etc.	12-205	16-205
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Parallel Reference Table

Subject	Old code §	New code §
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Customer's responsibility for violations	13-121	18-320
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Unauthorized use of or interference with water supply	13-123	18-322
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Liability for cutoff failures	13-126	18-325
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Definitions	13-201	18-401
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Parallel Reference Table

Subject	Old code §	New code §
Building sewers and connections	13-204	18-404
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ELECTRICITY

To be furnished under franchise	13-301	19-101
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GAS

To be furnished under franchise	13-401	19-201
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APPENDIX 2

PLAN OF OPERATION FOR THE OCCUPATIONAL SAFETY AND HEALTH PROGRAM FOR THE EMPLOYEES OF THE CITY OF BERRY HILL

- I. Purpose and coverage.
- II. Definitions.
- III. Employer's rights and duties.
- IV. Employee's rights and duties.
- V. Administration.
- VI. Standards authorized.
- VII. Variance procedure.
- VIII. Recordkeeping and reporting.
- IX. Employee complaint procedure.
- X. Education and training.
- XI. General inspection procedures.
- XII. Imminent danger procedures.
- XIII. Abatement orders and hearings.
- XIV. Penalties.
- XV. Confidentiality of privileged information.
- XVI. Compliance with other laws not excused.

APPENDICES

- I. Organizational chart
- II. Employee notification
- III. Program budget
- IV. Accident reporting procedures

I. Purpose and coverage. The purpose of this plan is to provide guidelines and procedures for implementing the Occupational Safety and Health Program for the employees of the City of Berry Hill.

This plan is applicable to all employees, part-time or full-time, seasonal or permanent.

The City of Berry Hill in electing to establish and maintain an effective occupational safety and health program for its employees:

- a. Provide a safe and healthful place and condition of employment.
- b. Require the use of safety equipment, personal protective equipment, and other devices where reasonably necessary to protect employees.
- c. Make, keep, preserve, and make available to the Commissioner of Labor, his designated representatives, or persons within the Department of Labor to whom such responsibilities have been delegated, including the Director

of the Division of Occupational Safety and Health, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.

- d. Consult with the Commissioner of Labor or his designated representative with regard to the adequacy of the form and content of such records.
- e. Consult with the Commissioner of Labor regarding safety and health problems which are considered to be unusual or peculiar and are such that they cannot be resolved under an occupational safety and health standard promulgated by the state.
- f. Assist the Commissioner of Labor or his monitoring activities to determine program effectiveness and compliance with the occupational safety and health standards.
- g. Make a report to the Commissioner of Labor annually, or as may otherwise be required, including information on occupational accidents, injuries, and illnesses and accomplishments and progress made toward achieving the goals of the occupational safety and health program.
- h. Provide reasonable opportunity for and encourage the participation of employees in the effectuation of the objectives of this program, including the opportunity to make anonymous complaints concerning conditions or practices which may be injurious to employees' safety and health. (Ord. #2002-332, Oct. 2002)

II. Definitions. For the purposes of this program, the following definitions apply:

- a. "Act" or "TOSH Act" shall mean the Tennessee Occupational Safety and Health Act of 1972.
- b. "Appointing authority" means any official or group of officials of the employer having legally designated powers of appointment, employment, or removal therefrom for a specific department, board, commission, division, or other agency of this employer.
- c. "Chief executive officer" means the chief administrative official, county judge, county chairman, mayor, city manager, general manager, etc., as may be applicable.
- d. "Commissioner of Labor" means the chief executive officer of the Tennessee Department of Labor. This includes any person appointed, designated, or deputized to perform the duties or to exercise the powers assigned to the Commissioner of Labor.

- e. "Director of occupational safety and health" or "director" means the person designated by the establishing ordinance, or executive order to perform duties or to exercise powers assigned so as to plan, develop, and administer the Occupational Safety and Health Program for the employees of the City of Berry Hill.
- f. "Employee" means any person performing services for this employer and listed on the payroll of this employer, either as part-time, seasonal, or permanent. It also includes any persons normally classified as volunteers provided such persons received remuneration of any kind for their services. This definition shall not include independent contractors, their agents, servants, and employees.
- g. "Employer" means the City of Berry Hill and includes each administrative department, board, commission, division, or other agency of the City of Berry Hill.
- h. "Establishment" or "worksite" means a single physical location under the control of this employer where business is conducted, services are rendered, or industrial type operations are performed.
- i. "Governing body" means the County Quarterly Court, board of aldermen, board of commissioners, city or town council, board of governors, etc., whichever may be applicable to the local government, government agency, or utility to which this plan applies.
- j. "Imminent danger" means any conditions or practices in any place of employment which are such that a hazard exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such hazard can be eliminated through normal compliance enforcement procedures.
- k. "Inspector(s)" means the individual(s) appointed or designated by the director of occupational safety and health to conduct inspections provided for herein. If no such compliance inspector(s) is appointed, inspections shall be conducted by the director of occupational safety and health.
- l. "Person" means one or more individuals, partnerships, associations, corporations, business trusts, or legal representatives of any organized group of persons.
- m. "Serious injury" or "harm" means that type of harm that would cause permanent or prolonged impairment of the body in that:
 - 1. A part of the body would be permanently removed (e.g., amputation of an arm, leg, finger(s); loss of an eye) or rendered functionally useless or substantially reduced in efficiency on or off the job (e.g., leg shattered so severely that mobility would be permanently reduced), or

2. A part of an internal body system would be inhibited in its normal performance or function to such a degree as to shorten life or cause reduction in physical or mental efficiency (e.g., lung impairment causing shortness of breath).

On the other hand, simple fractures, cuts, bruises, concussions, or similar injuries would not fit either of these categories and would not constitute serious physical harm.

- n. "Standard" means an occupational safety and health standard promulgated by the Commissioner of Labor in accordance with Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972 which requires conditions or the adoption or the use of one or more practices, means, methods, operations, or processes or the use of equipment or personal protective equipment necessary or appropriate to provide safe and healthful conditions and places of employment. (Ord. #2002-332, Oct. 2002)

III. Employer's rights and duties. Rights and duties of the employer shall include, but are not limited to, the following provisions:

- a. Employer shall furnish to each employee conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.
- b. Employer shall comply with occupational safety and health standards and regulations promulgated pursuant to Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972.
- c. Employer shall refrain from any unreasonable restraint on the right of the Commissioner of Labor to inspect the employer's place(s) of business. Employer shall assist the Commissioner of Labor in the performance of their monitoring duties by supplying or by making available information, personnel, or aids reasonably necessary to the effective conduct of the monitoring activity.
- d. Employer is entitled to participate in the development of standards by submission of comments on proposed standards, participation in hearing on proposed standards, or by requesting the development of standards on a given issue under section 6 of the Tennessee Occupational Safety and Health Act of 1972.
- e. Employer is entitled to request an order granting a variance from an occupational safety and health standard.
- f. Employer is entitled to protection of its legally privileged communication.
- g. Employer shall inspect all worksites to insure the provisions of this program are complied with and carried out.

- h. Employer shall notify and inform any employee who has been or is being exposed in a biologically significant manner to harmful agents or material in excess of the applicable standard and of corrective action being taken.
- i. Employer shall notify all employees of their rights and duties under this program. (Ord. #2002-332, Oct. 2002)

IV. Employee's rights and duties. Rights and duties of employees shall include, but are not limited to, the following provisions:

- a. Each employee shall comply with occupational safety and health act standards and all rules, regulations, and orders issued pursuant to this program and the Tennessee Occupational Safety and Health Act of 1972 which are applicable to his or her own actions and conduct.
- b. Each employee shall be notified by the placing of a notice upon bulletin boards, or other places of common passage, of any application for a permanent or temporary order granting the employer a variance from any provision of the TOSHA Act or any standard or regulation promulgated under the Act.
- c. Each employee shall be given the opportunity to participate in any hearing that concerns an application by the employer for a variance from a standard or regulation promulgated under the Act.
- d. Any employee who may be adversely affected by a standard or variance issued pursuant to the Act or this program may file a petition with the Commissioner of Labor or whoever is responsible for the promulgation of the standard or the granting of the variance.
- e. Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by any applicable standard shall be provided by the employer with information on any significant hazards to which they are or have been exposed, relevant symptoms, and proper conditions for safe use or exposure. Employees shall also be informed of corrective action being taken.
- f. Subject to regulations issued pursuant to this program, any employee or authorized representative of employees shall be given the right to request an inspection and to consult with the director or inspector at the time of the physical inspection of the worksite.
- g. Any employee may bring to the attention of the director any violation or suspected violations of the standards or any other health or safety hazards.
- h. No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be

- instituted any proceeding or inspection under or relating to this program.
- i. Any employee who believes that he or she has been discriminated against or discharged in violation of subsection (h) of this section may file a complaint alleging such discrimination with the director. Such employee may also, within thirty (30) days after such violation occurs, file a complaint with the Commissioner of Labor alleging such discrimination.
 - j. Nothing in this or any other provisions of this program shall be deemed to authorize or require any employee to undergo medical examination, immunization, or treatment for those who object thereto on religious grounds, except where such is necessary for the protection of the health or safety of others, or when a medical examination may be reasonably required for performance of a specific job.
 - k. Employees shall report any accident, injury, or illness resulting from their job, however minor it may seem to be, to their supervisor or the director within twenty-four (24) hours after the occurrence. (Ord. #2002-332, Oct. 2002)

V. Administration. a. The director of occupational safety and health is designated to perform duties or to exercise powers assigned so as to administer this occupational safety and health program.

- 1. The director may designate person or persons as he deems necessary to carry out his powers, duties, or responsibilities under this program.
- 2. The director may delegate the power to make inspections, provided procedures employed are as effective as those employed by the director.
- 3. The director shall employ measures to coordinate, to the extent possible, activities of all departments to promote efficiency and to minimize any inconveniences under this program.
- 4. The director may request qualified technical personnel from any department or section of government to assist him in making compliance inspections, accident investigations, or as he may otherwise deem necessary and appropriate in order to carry out his duties under this program.
- 5. The director shall prepare the report to the Commissioner of Labor required by subsection (g) of section 1 of this plan.
- 6. The director shall make or cause to be made periodic and follow-up inspections of all facilities and worksites where employees of this employer are employed. He shall make recommendations to correct any hazards or exposures

- observed. He shall make or cause to be made any inspections required by complaints submitted by employees or inspections requested by employees.
7. The director shall assist any officials of the employer in the investigation of occupational accidents or illnesses.
 8. The director shall maintain or cause to be maintained records required under section VIII of this plan.
 9. The director shall, in the eventuality that there is a fatality or an accident resulting in the hospitalization of three or more employees insure that the Commissioner of Labor receives notification of the occurrence within eight (8) hours.
- b. The administrative or operational head of each department, division, board, or other agency of this employer shall be responsible for the implementation of this occupational safety and health program within their respective areas.
1. The administrative or operational head shall follow the directions of the director on all issues involving occupational safety and health of employees as set forth in this plan.
 2. The administrative or operational head shall comply with all abatement orders issued in accordance with the provisions of this plan or request a review of the order with the director within the abatement period.
 3. The administrative or operational head should make periodic safety surveys of the establishment under his jurisdiction to become aware of hazards or standards violations that may exist and make an attempt to immediately correct such hazards or violations.
 4. The administrative or operational head shall investigate all occupational accidents, injuries, or illnesses reported to him. He shall report such accidents, injuries, or illnesses to the director along with his findings and/or recommendations in accordance with Appendix IV of this plan. (Ord. #2002-332, Oct. 2002)

VI. Standards authorized. The standards adopted under this program are the applicable standards developed and promulgated under section VI(6) of the Tennessee Occupational Safety and Health Act of 1972 or which may, in the future, be developed and promulgated. Additional standards may be promulgated by the governing body of this employer as that body may deem necessary for the safety and health of employees. (Ord. #2002-332, Oct. 2002)

VII. Variance procedure. The director may apply for a variance as a result of a complaint from an employee or of his knowledge of certain hazards

or exposures. The director should definitely believe that a variance is needed before the application for a variance is submitted to the Commissioner of Labor.

The procedure for applying for a variance to the adopted safety and health standards is as follows:

- a. The application for a variance shall be prepared in writing and shall contain:
 1. A specification of the standard or portion thereof from which the variance is sought.
 2. A detailed statement of the reason(s) why the employer is unable to comply with the standard supported by representations by qualified personnel having first-hand knowledge of the facts represented.
 3. A statement of the steps the employer has taken and will take (with specific date) to protect employees against the hazard covered by the standard.
 4. A statement of when the employer expects to comply and what steps have or will be taken (with dates specified) to come into compliance with the standard.
 5. A certification that the employer has informed employees, their authorized representative(s), and/or interested parties by giving them a copy of the request, posting a statement summarizing the application (to include the location of a copy available for examination) at the places where employee notices are normally posted and by other appropriate means. The certification shall contain a description of the means actually used to inform employees and that employees have been informed of their right to petition the Commissioner of Labor.
- b. The application for a variance should be sent to the Commissioner of Labor by registered or certified mail.
- c. The Commissioner of Labor will review the application for a variance and may deny the request or issue an order granting the variance. An order granting a variance shall be issued only if it has been established that:
 1. The employer:
 - i. Is unable to comply with the standard by the effective date because of unavailability of professional or technical personnel or materials and equipment required or necessary construction or alteration of facilities or technology.
 - ii. Has taken all available steps to safeguard employees against the hazard(s) covered by the standard.
 - iii. Has an effective program for coming into compliance with the standard as quickly as possible.

2. The employee is engaged in an experimental program as described in subsection (b), section 13 of the Act.
- d. A variance may be granted for a period of no longer than is required to achieve compliance or one (1) year, whichever is shorter.
 - e. Upon receipt of an application for an order granting a variance, the commissioner to whom such application is addressed may issue an interim order granting such a variance for the purpose of permitting time for an orderly consideration of such application. No such interim order may be effective for longer than one hundred eighty (180) days.
 - f. The order or interim order granting a variance shall be posted at the worksite and employees notified of such order by the same means used to inform them of the application for said variance (see subsection (a)(5) of this section). (Ord. #2002-332, Oct. 2002)

VIII. Recordkeeping and reporting. a. Recording and reporting of all occupational accident, injuries, and illnesses shall be in accordance with instructions and on forms prescribed in the booklet, Recordkeeping Requirements Under the Occupational Safety and Health Act of 1970, (revised 1978) or as may be prescribed by the Tennessee Department of Labor.

- b. The position responsible for recordkeeping is shown on the Safety and Health Organizational Chart, Appendix I to this plan.
- c. Details of how reports of occupational accidents, injuries, and illnesses will reach the recordkeeper are specified by Accident Reporting Procedures, Appendix IV to this plan. (Ord. #2002-332, Oct. 2002)

IX. Employee complaint procedure. If any employee feels that he is assigned to work in conditions which might affect his health, safety, or general welfare at the present time or at any time in the future, he should report the condition to the director of occupational safety and health.

- a. The complaint should be in the form of a letter and give details on the condition(s) and how the employee believes it affects or will affect his health, safety, or general welfare. The employee should sign the letter but need not do so if he wishes to remain anonymous (see subsection (h) of section 1 of this plan).
- b. Upon receipt of the complaint letter, the director will evaluate the condition(s) and institute any corrective action, if warranted. Within ten (10) working days following the receipt of the complaint, the director will answer the complaint in writing stating whether or not the complaint is deemed to be valid and if no, why not, what action has been or will be taken to correct or

abate the condition(s), and giving a designated time period for correction or abatement. Answers to anonymous complaints will be posted upon bulletin boards or other places of common passage where the anonymous complaint may be reasonably expected to be seen by the complainant for a period of three (3) working days.

- c. If the complainant finds the reply not satisfactory because it was held to be invalid, the corrective action is felt to be insufficient, or the time period for correction is felt to be too long, he may forward a letter to the chief executive officer or to the governing body explaining the condition(s) cited in his original complaint and why he believes the answer to be inappropriate or insufficient.
- d. The chief executive officer or a representative of the governing body will evaluate the complaint and will begin to take action to correct or abate the condition(s) through arbitration or administrative sanctions or may find the complaint to be invalid. An answer will be sent to the complainant within ten (10) working days following receipt of the complaint or the next regularly scheduled meeting of the governing body following receipt of the complaint explaining decisions made and action taken or to be taken.
- e. After the above steps have been followed and the complainant is still not satisfied with the results, he may then file a complaint with the Commissioner of Labor. Any complaint filed with the Commissioner of Labor in such cases shall include copies of all related correspondence with the director and the chief executive officer or the representative of the governing body.
- f. Copies of all complaints and answers thereto will be filed by the director who shall make them available to the Commissioner of Labor or his designated representative upon request. (Ord. #2002-332, Oct. 2002)

X. Education and training. a. Director and/or compliance inspector(s).

- 1. Arrangements will be made for the director and/or compliance inspector(s) to attend training seminars, workshops, etc., conducted by the State of Tennessee or other agencies.
 - 2. Reference materials, manuals, equipment, etc., deemed necessary for use in conducting compliance inspections, conducting local training, wiring technical reports, and informing officials, supervisors, and employees of the existence of safety and health hazards will be furnished.
- b. All employees (including managers and supervisory personnel).

A suitable safety and health training program for employees will be established. This program will, at a minimum:

1. Instruct each employee in the recognition and avoidance of hazards or unsafe conditions and of standards and regulations applicable to the employees work environment to control or eliminate any hazards, unsafe conditions, or other exposures to occupational illness or injury.
2. Instruct employees who are required to handle poisons, acids, caustics, explosives, and other harmful or dangerous substances in the safe handling and use of such items and makes them aware of the potential hazards, proper handling procedures, personal protective measures, personal hygiene, etc., which may be required.
3. Instruct employees who may be exposed to environments where harmful plants or animals are present, of the hazards of the environment, how to best avoid injury or exposure, and the first aid procedures to be followed in the event of injury or exposure.
4. Instruct employees required to handle or use flammable liquids, gases, or toxic materials in their safe handling and use and make employees aware of specific requirements contained in subparts H and M and other applicable subparts of TOSHA Act Standards (1910 and/or 1926).
5. Instruct employees on hazards and dangers of confined or enclosed spaces.
 - i. "Confined or enclosed space" means space having a limited means of egress and which is subject to the accumulation of toxic or flammable contaminants or has an oxygen deficient atmosphere. Confined or enclosed spaces include, but are not limited to, storage tanks, boilers, ventilation or exhaust ducts, sewers, underground utility accesses, tunnels, pipelines, and open top spaces more than four feet (4') in depth such as pits, tubs, vaults, and vessels.
 - ii. Employees will be given general instruction on hazards involved, precautions to be taken, and on use of personal protective and emergency equipment required. They shall also be instructed on all specific standards or regulations that apply to work in dangerous or potentially dangerous areas.
 - iii. The immediate supervisor of any employee who must perform work in a confined or enclosed space shall be responsible for instructing employees on danger of hazards which may be present, precautions to be

taken, and use of personal protective and emergency equipment, immediately prior to their entry into such an area and shall require use of appropriate personal protective equipment. (Ord. #2002-332, Oct. 2002)

XI. General inspection procedures. It is the intention of the governing body and the responsible officials to have an occupational safety and health program that will insure the welfare of employees. In order to be aware of hazards, periodic inspections must be performed. These inspections will enable the finding of hazards or unsafe conditions or operations that will need correction in order to maintain safe and healthful worksites. Inspections made on a pre-designated basis may not yield the desired results. Inspections will be conducted, therefore, on a random basis at intervals not to exceed thirty (30) calendar days.

- a. In order to carry out the purposes of this program, the director and/or compliance inspector(s), if appointed, is authorized:
 1. To enter at any reasonable time, any establishment, facility, or worksite where work is being performed by an employee when such establishment, facility, or worksite is under the jurisdiction of the employer and;
 2. To inspect and investigate during regular working hours and at other reasonable times, within reasonable limits, and in a reasonable manner, any such place of employment and all pertinent conditions, processes, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any supervisor, operator, agent, or employee working therein.
- b. If an imminent danger situation is found, alleged, or otherwise brought to the attention of the director or inspector during a routine inspection, he shall immediately inspect the imminent danger situation in accordance with section XII of this plan before inspecting the remaining portions of the establishment, facility, or worksite.
- c. An administrative representative of the employer and a representative authorized by the employees shall be given an opportunity to consult with and/or to accompany the director or inspector during the physical inspection of any worksite for the purpose of aiding such inspection.
- d. The right of accompaniment may be denied any person whose conduct interferes with a full and orderly inspection.
- e. The conduct of the inspection shall be such as to preclude unreasonable disruptions of the operation(s) of the workplace.

- f. Interviews of employees during the course of the inspection may be made when such interviews are considered essential to investigate techniques.
- g. Advance notice of inspections.
 - 1. Generally, advance notice of inspections will not be given as this precludes the opportunity to make minor or temporary adjustments in an attempt to create a misleading impression of conditions in an establishment.
 - 2. There may be occasions when advance notice of inspections will be necessary in order to conduct an effective inspection or investigation. When advance notice of inspection is given, employees or their authorized representative(s) will also be given notice of the inspection.
- h. The director need not personally make an inspection of each and every worksite once every thirty (30) days. He may delegate the responsibility for such inspections to supervisors or other personnel provided:
 - 1. Inspections conducted by supervisors or other personnel are at least as effective as those made by the director.
 - 2. Records are made of the inspections and of any discrepancies found and are forwarded to the director.
- i. The director shall maintain records of inspections to include identification of worksite inspected, date of inspection, description of violations of standards or other unsafe conditions or practices found, and corrective action taken toward abatement. Said inspection records shall be subject to review by the Commissioner of Labor or his authorized representative. (Ord. #2002-332, Oct. 2002)

XII. Imminent danger procedures.

- a. Any discovery, any allegation, or any report of imminent danger shall be handled in accordance with the following procedures:
 - 1. The director shall immediately be informed of the alleged imminent danger situation and he shall immediately ascertain whether there is a reasonable basis for the allegation.
 - 2. If the alleged imminent danger situation is determined to have merit by the director, he shall make or cause to be made an immediate inspection of the alleged imminent danger location.
 - 3. As soon as it is concluded from such inspection that conditions or practices exist which constitute an imminent danger, the director or compliance inspector shall attempt to have the danger corrected. All employees at the location

shall be informed of the danger and the supervisor or person in charge of the worksite shall be requested to remove employees from the area, if deemed necessary.

4. The administrative or operational head of the workplace in which the imminent danger exists, or his authorized representative, shall be responsible for determining the manner in which the imminent danger situation will be abated. This shall be done in cooperation with the director or compliance inspector and to the mutual satisfaction of all parties involved.
 5. The imminent danger shall be deemed abated if:
 - i. The imminence of the danger has been eliminated by removal of employees from the area of danger.
 - ii. Conditions or practices which resulted in the imminent danger have been eliminated or corrected to the point where an unsafe condition or practice no longer exists.
 6. A written report shall be made by or to the director describing in detail the imminent danger and its abatement. This report will be maintained by the director in accordance with subsection (i) of section XI of this plan.
- b. Refusal to abate.
1. Any refusal to abate an imminent danger situation shall be reported to the director and/or chief executive officer immediately.
 2. The director and/or chief executive officer shall take whatever action may be necessary to achieve abatement. (Ord. #2002-332, Oct. 2002)

XIII. Abatement orders and hearings.

- a. Whenever, as a result of an inspection or investigation, the director or compliance inspector(s) finds that a worksite is not in compliance with the standards, rules or regulations pursuant to this plan and is unable to negotiate abatement with the administrative or operational head of the worksite within a reasonable period of time, the director shall:
 1. Issue an abatement order to the head of the worksite.
 2. Post, or cause to be posted, a copy of the abatement order at or near each location referred to in the abatement order.
- b. Abatement orders shall contain the following information:
 1. The standard, rule, or regulation which was found to be violated.
 2. A description of the nature and location of the violation.

3. A description of what is required to abate or correct the violation.
 4. A reasonable period of time during which the violation must be abated or corrected.
- c. At any time within ten (10) days after receipt of an abatement order, anyone affected by the order may advise the director in writing of any objections to the terms and conditions of the order. Upon receipt of such objections, the director shall act promptly to hold a hearing with all interested and/or responsible parties in an effort to resolve any objections. Following such hearing, the director shall, within three (3) working days, issue an abatement order and such subsequent order shall be binding on all parties and shall be final. (Ord. #2002-332, Oct. 2002)

XIV. Penalties.

- a. No civil or criminal penalties shall be issued against any official, employee, or any other person for failure to comply with safety and health standards or any rules or regulations issued pursuant to this program.
- b. Any employee, regardless of status, who willfully and/or repeatedly violates, or causes to be violated, any safety and health standard, rule, or regulation or any abatement order shall be subject to disciplinary action by the appointing authority. It shall be the duty of the appointing authority to administer discipline by taking action in one of the following ways as appropriate and warranted:
 1. Oral reprimand.
 2. Written reprimand.
 3. Suspension for three (3) or more working days.
 4. Termination of employment. (Ord. #2002-332, Oct. 2002)

XV. Confidentiality of privileged information. All information obtained by or reported to the director pursuant to this plan of operation or the legislation (ordinance, or executive order) enabling this occupational safety and health program which contains or might reveal information which is otherwise privileged shall be considered confidential. Such information may be disclosed to other officials or employees concerned with carrying out this program or when relevant in any proceeding under this program. Such information may also be disclosed to the Commissioner of Labor or their authorized representatives in carrying out their duties under the Tennessee Occupational Safety and Health Act of 1972. (Ord. #2002-332, Oct. 2002)

XVI. Compliance with other laws not excused.

- a. Compliance with any other law, statute, ordinance, or executive order, as applicable, which regulates safety and health in

employment and places of employment shall not excuse the employer, the employee, or any other person from compliance with the provisions of this program.

- b. Compliance with any provisions of this program or any standard, rule, regulation, or order issued pursuant to this program shall not excuse the employer, the employee, or any other person from compliance with the law, statute, ordinance, executive order, as applicable, regulating and promoting safety and health unless such law, statute, ordinance, or executive order, as applicable, is specifically repealed. (Ord. #2002-332, Oct. 2002)

Director, Occupational Safety and Health

Occupational Safety and Health Program Plan

APPENDIX I

ORGANIZATIONAL CHART

Department, Agency, Office, Board, Etc.	Number of Employees
Finance Department	3
Police Department	17
Public Works Department	<u>2</u>
TOTAL NO. OF EMPLOYEES:	22

**DIRECTOR OF OCCUPATIONAL SAFETY
AND HEALTH:**

Joe Baker
City Manager
698 Thompson Lane
Nashville, TN 37204
615-292-5531

RECORDKEEPER:

Dianne Chapman
City Recorder
698 Thompson Lane
Nashville, TN 37204
615-292-5531

Occupational Safety and Health Program Plan

APPENDIX II

NOTICE TO ALL EMPLOYEES OF THE CITY OF BERRY HILL

The Tennessee Occupational Safety and Health Act of 1972 provides job safety and health protection for Tennessee workers through the promotion of safe and healthful working conditions. Under a plan reviewed by the Tennessee Department of Labor, this government, as an employer, is responsible for administering the Act to its employees. Safety and health standards are the same as state standards and jobsite inspections will be conducted to insure compliance with the Act.

Employees shall be furnished conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.

Each employee shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this program which are applicable to his or her own actions and conduct.

Each employee shall be notified of any application for a temporary variance from any standard or regulation by the posting of a copy upon bulletin boards or other places of common passage.

Each employee shall be given the opportunity to participate in any hearing that concerns an application for a variance from a standard.

Any employee who may be adversely affected by a standard or variance issued pursuant to this program may file a petition with the director.

Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by an applicable standard shall be notified by the employer and informed of such exposure and corrective action being taken.

Subject to regulations issued pursuant to this program, any employee or authorized representative(s) of employees shall be given the right to request an inspection.

No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceedings or inspection under, or relating to, this program.

Any employee who believes he or she has been discriminated against or discharged in violation of these sections may, within thirty (30) days after such violation occurs, have an opportunity to appear in a hearing before the director of safety for assistance in obtaining relief or to file a complaint with the commissioner of labor alleging such discrimination.

A copy of the Occupational Safety and Health Program for the employees of the City of Berry Hill is available for inspection by any employee at city hall during regular office hours.

CITY MANAGER

Occupational Safety and Health Program Plan

APPENDIX III

PROGRAM BUDGET

1.	Prorated portion of wages, salaries, etc., for program administration and support.	\$ 6,750
2.	Office space and office supplies.	250
3.	Safety and health educational materials and support for education and training.	150
4.	Safety devices for personnel safety and health.	100
5.	Equipment modifications.	100
6.	Equipment additions (facilities)	500
7.	Protective clothing and equipment (personnel).	200
8.	Safety and health instruments.	100
9.	Funding for projects to correct hazardous conditions.	500
10.	Reserve fund for the program.	300
11.	Contingencies and miscellaneous.	200
	TOTAL ESTIMATED PROGRAM FUNDING	\$ 9,150

Occupational Safety and Health Program Plan

APPENDIX IV

ACCIDENT REPORTING PROCEDURES

Employees shall report all accidents, injuries, or illnesses to their supervisor as soon as possible, but not later than two (2) hours after their occurrence. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the director and/or recordkeeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The director (or recordkeeper in the absence of the director) shall ensure that the commissioner of labor receives notification of the occurrence within eight (8) hours. The employees' supervisor will investigate the accident or illness, complete an accident report, and forward the accident report to the director and/or recordkeeper within twenty-four (24) hours of the time the accident or injury occurred or the time of the first report of the illness.

Since a Workers Compensation Form 6A or OSHA No. 101 Form must be completed, all reports submitted in writing to the person responsible for recordkeeping shall include the following information as a minimum:

1. Accident location, if different from employer's mailing address and state whether accident occurred on premises owned or operated by employer.
2. Name, social security number, home address, age, sex, and occupation (regular job title) of injured or ill employee.
3. Title of the department or division in which the injured or ill employee is normally employed.
4. Specific description of what the employee was doing when injured.
5. Specific description of how the accident occurred.
6. A description of the injury or illness in detail and the part of the body affected.
7. Name of the object or substance which directly injured the employee.
8. Date and time of injury or diagnosis of illness.
9. Name and address of physician, if applicable.
10. If employee was hospitalized, name and address of hospital.
11. Date of report.

ORDINANCE 2004-348

AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE CITY OF BERRY HILL, TENNESSEE.

WHEREAS some of the ordinances of the City of Berry Hill are obsolete, and

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

WHEREAS the Board of Commissioners of the City of Berry Hill, Tennessee, has caused its ordinances of a general, continuing and permanent application or of a penal nature to be codified and revised and the same are embodied in a code of ordinances known as the "Berry Hill Municipal Code," now therefore:

BE IT ORDAINED BY THE CITY OF BERRY HILL, TENNESSEE, AS FOLLOWS:¹

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

Section 2. Ordinances repealed. All ordinances adopted prior to January 1, 2004, of a general, continuing, and permanent application or of a penal nature, not contained in the municipal code, are hereby repealed from and after the effective date of said code, except as hereinafter provided in Section 3 below.

Section 3. Ordinances saved from repeal. The repeal provided for in Section 2 of this ordinance shall not affect: Any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of the municipal code; any ordinance or resolution promising or requiring the payment of money by or to the city or authorizing the issuance of any bonds or other evidence of said city's indebtedness; any appropriation ordinance or ordinance providing for the levy of

¹ Charter reference

Tennessee Code Annotated, §6-20-214.

) taxes or any budget ordinance; any contract or obligation assumed by or in favor of said city; any ordinance establishing a social security system or providing coverage under that system; any administrative ordinances or resolutions not in conflict or inconsistent with the provisions of such code; the portion of any ordinance not in conflict with such code, which regulates speed, direction of travel, passing, stopping, yielding, standing or parking on any specifically named public street or way; any right or franchise granted by the city; any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments therefore; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; nor shall such repeal affect any ordinance annexing territory to the city.

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

) **Section 5. Penalty clause.** Unless otherwise specified in a title, chapter or section of the municipal code, including the codes and ordinances adopted by reference, whenever in the municipal code an 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 five hundred dollars (\$500.00), unless restricted to a lesser amount pursuant to state law, plus 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 "a civil penalty."¹ (As amended by Ord. #98-295, April 1998)

¹State law reference

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

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

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

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

Section 8. Construction of conflicting provisions. Where any provision of the municipal code is in conflict with any other provision in said code, the provision which establishes the higher standard for the promotion and protection of the public health, safety and welfare shall prevail.

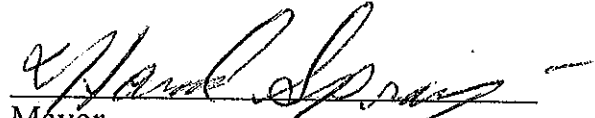
Section 9. Code available for public use. A copy of the municipal code shall be kept available in the recorder's office for public use and inspection at all reasonable times.

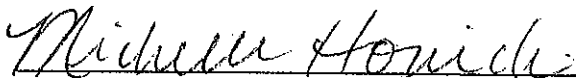
Section 10. Date of Effect. This ordinance shall take effect from and after its final passage, the public welfare requiring it, and the municipal code, including

all the codes and ordinances therein adopted by reference, shall be effective on and after that date.

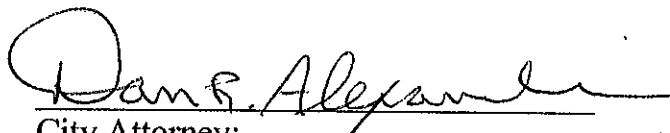
Passed First reading: September 13, 2004

Passed Second reading: October 11, 2004


Mayor


Recorder

Approved as to Legality and Form:


City Attorney: