THE

BLUFF CITY

MUNICIPAL

CODE

Prepared by the

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

in cooperation with the

TENNESSEE MUNICIPAL LEAGUE

May 1998

TOWN OF BLUFF CITY, TENNESSEE

MAYOR

Irene Wells

VICE MAYOR

Ray Harrington

ALDERMEN

Richard Bowling
Melvin Carrier
Lon Gene Leonard

RECORDER/CITY MANAGER

Judy Dulaney

PREFACE

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

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

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

(1) That all ordinances relating to subjects treated in the code or which should be added to the code are adopted as amending, adding, or deleting specific chapters or sections of the code (see section 8 of the adopting ordinance).

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

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

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 Sandy Selvage, the MTAS Senior Word Processing Specialist who did all the typing on this project, and Tracy G. Gardner, Administrative Services Assistant, is gratefully acknowledged.

Steve Lobertini
Codification Specialist

Change 3, March 7, 2002

ORDINANCE ADOPTION PROCEDURES PRESCRIBED BY THE TOWN CHARTER

ARTICLE IV

ORDINANCES

Section 1. Required ordaining clause. All ordinances shall begin, "Be it ordained by the Town of Bluff City, as follows."

Section 2. Number of readings; emergency ordinances; amendment. Ordinances shall be read two (2) different days in open session before their adoption, and not less than one (1) week shall elapse between the first and second readings. Ordinances shall not take effect until ten (10) days after their publication, or the publication of the caption, in a newspaper of general circulation in the town, following their final passage. However, emergency ordinances may be passed on one (1) reading and shall become effective immediately upon passage and shall require no publication. Emergency ordinances shall contain a statement that an emergency exists and shall specify with distinctness the facts and reasons constituting such an emergency. A vote of not less than four (4) aye votes of the members of the board shall be required to pass an emergency ordinance. No ordinance making a grant, renewal or extension of a franchise or other special privileges, or regulating the rate to be charged for its service by any public utility, shall ever be passed as an emergency ordinance.

TITLE 1

GENERAL ADMINISTRATION[1]

CHAPTER

CHAPTER 1

BOARD OF MAYOR AND ALDERMEN[2]

SECTION

1-101. Time and place of regular meetings. (1) The Board of Mayor and Aldermen of the Town of Bluff City, Tennessee shall hold the regular monthly meeting on the second Thursday of each month at 7:00 P.M. Eastern Standard Time at the Bluff City Town Hall unless notification of an alternate meeting place is given.

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[1]Charter references
See the charter index, the charter itself, and footnote references to the charter in the front of this code.
Municipal code references
Building, plumbing, electrical and gas inspectors: title 12.
Fire department: title 7.
Utilities: titles 18 and 19.
Wastewater treatment: title 18.
Zoning: title 14.

[2]Charter references
Bond required: art. VI, § 3.
Powers: art. III, § 4.
Removal from office: art. III, § 10.
Term of office: art. III, § 1.
Vacancy in office: art. III, § 6.

(2) If any of the meeting dates mentioned in (1) hereinabove falls on a holiday recognized by the Town of Bluff City, Tennessee the regularly scheduled meeting will not be held. The holidays recognized by the Town of Bluff City are as follows:

(a) New Year's Day.
(b) Martin Luther King Birthday.
(c) Memorial Day.
(d) Independence Day.
(e) Labor Day.
(f) Good Friday.
(g) Veterans Day.
(h) Thanksgiving (2 days).
(i) Christmas (2 days). (Ord #97-001, March 1997, as amended by Ord. #2008-003, April 2008)

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

(1) Call to order by the mayor.
(2) Roll call by the city recorder.
(3) Prayer and Pledge of Allegiance.
(4) Approval of the minutes of the previous meeting and any specially called meeting(s).
(5) Citizens' comments - first section.
(6) Consideration of ordinances and resolutions.
(7) Communications from the mayor.
(8) Reports from designated aldermen, city officials and county commissioners.
(9) Old business.
(10) New business.
(11) Citizens' comments - second section.
(12) Adjournment.

The procedure for the first and second sections of citizens' comments shall be as follows:

(a) Upon recognition by the chair, the person wishing to speak shall stand and state their:
(i) Name;
(ii) Address; and,
(iii) The subject upon which they wish to speak.

(b) Each person shall be allotted a maximum time of three minutes per section to express their views.

(c) The city recorder shall serve as the official time keeper.

(d) The procedure used herein above shall apply to special called meetings as well as regular monthly board meetings.

(1980 Code, § 1-102, as amended by Ord. #91-039, Sept. 1991, Ord. #93-007, Sept. 1993, Ord. #96-003, April 1996, and Ord. #2011-015, Aug. 2011)

1-103. General rules of order. The rules of order and parliamentary procedure contained in Robert's Rules of Order, Newly Revised, 1990 (9th) Edition, shall govern the transaction of business by and before the board of mayor and aldermen at its meetings in all cases to which they are applicable and in which they are not inconsistent with provisions of the charter or this code. (1980 Code, § 1-103, modified)

1-104. Procedures for accessing and copying public records.

(1) Consistent with the Public Records Act of Tennessee, personnel of the Town of Buff City shall provide full access and assistance in a timely and efficient manner to persons who request access to open public records.

(2) Employees of the Town of Bluff City shall protect the integrity and organization of public records with respect to the manner in which the records must be performed under the supervision of employees of the town. All copying of public records must be performed by employees of the town.

(3) In order to prevent excessive disruptions of the work of employees of the town, and disruptions of the essential functions and duties of such employees, persons requesting inspection and/or copying of public records shall complete a records request form to be furnished by the town. Persons requesting access to open public records shall describe such records with particularity, so the records may be located and copied by employees.

(4) When voluminous records are requested in writing using the designated form, the person requesting such access shall make an appointment with the city recorder or her designee of the department holding such records. Appointments for inspection of records shall be for no longer than two (2) hours in one day per request. If further inspection is needed by the requesting party, another appointment may be scheduled. The purpose of this policy is to prevent monopolization of working hours of town employees, and interference with their work duties. Employees shall make every effort to schedule appointments and copying of records so as to provide full access to the requesting party.

(5) If the requested records are in the custody of another town department, they shall be delivered to the administrative offices when a request is made.

(6) Persons may further request that copies be made of open public records. The charge for such copies shall be fifteen cents ($0.15) per page for black and white and fifty cents ($0.50) per page for color. Payment of such copying fees are due when the copies are received by the requesting party. If voluminous copies are requested, the town reserves the right to take seven (7) working days to prepare such copies pursuant to a written request. No open public records may be removed from the town offices for the purpose of copying.

(7) If the public records requested are frail due to age or other conditions, and copying of such record will cause damage to the original records, the requesting party may be required to make an appointment for inspection as provided in subsection (4). (as added by Ord. #2008-005, June 2008, and amended by Ord. #2008-015, Feb. 2009)

1-105. <u>City hall closed on election day</u>. City hall shall be closed for business on any election day that the Bluff City Hall is used as a voting precinct. (as added by Ord. #2012-005, April 2012)

CHAPTER 2

RECORDER[1]

SECTION

1-201. To be bonded. The recorder shall be bonded in the sum of twenty-five thousand dollars (25,000.00) with a surety company authorized to do business in Tennessee as surety before assuming the duties of his office. (1980 Code, § 1-201)

1-202. To charge for copies of records, etc. When the recorder provides copies of records, papers, and documents in his office, he shall charge therefor a fee of ten cents ($.10) per page. (1980 Code, § 1-202)

[1]Charter reference: art. X.

CHAPTER 3

TOWN MANAGER[1]

SECTION

1-301. Maximum expenditure for town. The maximum expenditure which the Town Manager of the Town of Bluff City, Tennessee can make without specific authorization of the board of mayor and aldermen shall be $2,500.00. (Ord. #96-004, April 1996)

[1]Charter reference: art. VII.

TITLE 2

BOARDS AND COMMISSIONS, ETC.

CHAPTER

CHAPTER 1

PARK AND RECREATION ADVISORY BOARD

SECTION

2-101. Created. There is hereby created a park and recreation advisory board. Said board shall have all duties and powers pursuant to Tennessee Code Annotated Title 11, Chapter 24, and shall be an advisory board. (Ord. #99-005, May 1999)

2-102. Appointment and terms of board members. That the mayor shall appoint five (5) persons to serve on this board for the terms outlined below:

(1) One person (one year)
(2) One person (two years)
(3) One person (three years)
(4) One person (four years)
(5) One person (five years). (Ord. #99-005, May 1999)

TITLE 3

MUNICIPAL COURT[1]

CHAPTER

CHAPTER 1

CITY JUDGE

SECTION

3-101. City judge. The office of city judge is hereby created. The city judge shall receive such salary as may be established from time to time by the board of mayor and aldermen. (1980 Code, § 1-401)

[1]Charter reference: art. VIII.

CHAPTER 2

COURT ADMINISTRATION

SECTION

3-201. Fines and court costs. (1) The following specified municipal ordinance violations carry the designated monetary fine as a penalty:

Speeding		$50.00
Registration law violation		$20.00
Operating a motor vehicle on public streets without a valid operator's permit		$45.00
Failure to have a valid operator's permit in possession while operating a motor vehicle on public streets		$35.00
Improper passing		$20.00
Following too closely		$20.00
Failure to obey stop sign or other traffic control signal		$20.00
Failure to yield the right-of-way		$20.00
Vehicle light and equipment violations		$17.00
Failure to obey citation to appear in municipal court		$30.00
Trespassing		$20.00
Disorderly conduct		$15.00
Possessing an open alcoholic beverage		$25.00
Violation of noise abatement ordinance		$12.00
Improper parking		$15.00
Parking in a fire lane		$25.00
Blocking access to a fire hydrant		$25.00
Passing a stopped school bus which is loading or unloading students		$40.00
Blocking traffic on a public street		$12.00
Violations of the municipal dog ordinance		
First offense	$15.00	
Second offense	$25.00	
Third offense	$50.00	
Violation of § 11-705		$50.00
Loading and unloading students and/or passengers on Maple Street in front of Bluff City Elementary School		$50.00
Miscellaneous traffic offenses not specified above		$30.00
False alarms		$50.00

Miscellaneous ordinance violations not specified above
not less than $15.00 and not more than $50.00

(2) No court costs or litigation tax shall be assessed for improper parking violations other than a one dollar ($1.00) litigation tax pursuant to Tennessee Code Annotated, § 16-18-304(b). No state litigation tax shall be assessed for violation of municipal dog ordinance or for any municipal ordinance violations which is not also a state misdemeanor. Otherwise court costs in the amount of seventy-five dollars ($75.00) shall be fixed and collected for each violation specified above, a state litigation tax of thirteen dollars and seventy-five cents ($13.75) shall be fixed and collected on each state law traffic misdemeanor specified above and a municipal litigation tax of thirteen dollars and seventy-five cents ($13.75). A training fund assessment of five dollars ($5.00) shall be fixed and assessed for each violation specified above and a one dollar ($1.00) fee shall be fixed and assessed for each violation specified above for administrative director's expenses in providing training and continuing education for municipal court judges and municipal clerks.

(3) For each violation of municipal ordinance scheduled in subsection there shall be assessed a court cost in the amount of seventy-five dollars ($75.00) and a state litigation tax of thirteen dollars and seventy-five cents ($13.75), a municipal litigation tax of thirteen dollars and seventy-five cents ($13.75), a training fund assessment of five dollars ($5.00) and a one dollar ($1.00) fee shall be fixed and assessed for each violation specified above for administrative director's expense in providing training and continuing education for municipal court judges and municipal court clerks. (Ord. #93-002, April 1993, as amended by Ord. #97-014, § 2, Nov. 1997, Ord. #2000-011, Sept. 2000, Ord. #2002-001, Jan. 2002, Ord. #2002-004, March 2002, and Ord. #2003-008, Jan. 2004, and replaced by Ord. #2005-003, May 2005, Ord. #2008-018, Feb. 2009, and Ord. #2013-010, Sept. 2013)

3-202. Imposition of fines, penalties, and costs. All fines, penalties and costs shall be imposed and recorded by the city judge on the city court docket in open court. (1980 Code, § 1-406)

3-203. Disturbance of proceedings. It shall be unlawful for any person to create any disturbance of any trial before the city court by making loud or unusual noises, by using indecorous, profane, or blasphemous language, or by any distracting conduct whatsoever. (1980 Code, § 1-409)

3-204. Trial and disposition of cases. Every person charged with violating a municipal ordinance shall be entitled to an expeditious trial and disposition of his case, provided the city court is in session or the city judge is reasonably available. However, the provisions of this section shall not apply when the alleged offender, by reason of drunkenness or other incapacity, is not

in a proper condition or is not able to appear before the court. (1980 Code, § 1-404)

3-205. Driver education course for traffic violations. (1) The terms and provisions as set forth in Tennessee Code Annotated, § 55-10-301 and all amendments thereof, are hereby adopted and ratified as though copied verbatim herein, together with all future amendments of this state law are made a part hereof by reference.

(2) The police department, under the supervision of the city judge, is hereby authorized and directed to operate and conduct a driver education or improvement course.

(3) A reasonable fee of one hundred dollars ($100.00) shall be assessed for the driver education course to each person who attends, however, no one shall be refused admittance for inability to pay.

(4) All ordinances and parts of ordinances, which are inconsistent with the provisions of this section, are hereby repealed to the extent of such inconsistency. (as added by Ord. #2008-017, Feb. 2009)

CHAPTER 3

SUMMONSES AND SUBPOENAS

SECTION

3-301. Issuance of summonses. When a complaint of an alleged ordinance violation is made to the city judge, the judge may in his discretion, in lieu of issuing an arrest warrant, issue a summons ordering the alleged offender to personally appear before the city court at a time specified therein to answer to the charges against him. The summons shall contain a brief description of the offense charged but need not set out verbatim the provisions of the ordinance alleged to have been violated. Upon failure of any person to appear before the city court as commanded in a summons lawfully served on him, the cause may be proceeded with ex parte, and the judgment of the court shall be valid and binding subject to the defendant's right of appeal. (1980 Code, § 1-402)

3-302. Issuance of subpoenas. The city judge may subpoena as witnesses all persons whose testimony he believes will be relevant and material to matters coming before his court, and it shall be unlawful for any person lawfully served with such a subpoena to fail or neglect to comply therewith. (1980 Code, § 1-403)

CHAPTER 4

BONDS AND APPEALS

SECTION

3-401. Appearance bonds authorized. When the city judge is not available or when an alleged offender requests and has reasonable grounds for a delay in the trial of his case, he may, in lieu of remaining in jail pending disposition of his case, be allowed to post an appearance bond with the city judge or, in the absence of the judge, with the ranking police officer on duty at the time, provided such alleged offender is not drunk or otherwise in need of protective custody. (1980 Code, § 1-405)

3-402. Appeals. Any defendant who is dissatisfied with any judgment of the city court against him may, within ten (10) days next after such judgment is rendered, appeal to the next term of the circuit court upon posting a proper appeal bond.[1] (1980 Code, § 1-407)

3-403. Amount of appearance bonds. An appearance bond in any case before the city court shall be in such amount as the city judge shall prescribe and shall be conditioned that the defendant shall appear for trial before the city court at the stated time and place. (1980 Code, § 1-408)

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[1]State law reference
Tennessee Code Annotated, § 27-5-101.

TITLE 4

MUNICIPAL PERSONNEL

CHAPTER

CHAPTER 1

SOCIAL SECURITY--TOWN PERSONNEL

SECTION

4-101. Policy and purpose as to coverage. It is hereby declared to be the policy and purpose of the Town of Bluff City to provide for all eligible employees and officials of the town, whether employed in connection with a governmental or proprietary function, the benefits of the system of federal old age and survivors insurance. In pursuance of said policy, and for that purpose, the town shall take such action as may be required by applicable state and federal laws or regulations. (1980 Code, § 1-601)

4-102. Necessary agreements to be executed. The mayor is hereby authorized and directed to execute all the necessary agreements and amendments thereto with the state executive director of old age insurance, as agent or agency, to secure coverage of employees and officials as provided in the preceding section. (1980 Code, § 1-602)

4-103. Withholdings from salaries or wages. Withholdings from the salaries or wages of employees and officials for the purpose provided in the first section of this chapter are hereby authorized to be made in the amounts and at such times as may be required by applicable state or federal laws or regulations, and shall be paid over to the state or federal agency designated by said laws or regulations. (1980 Code, § 1-603)

4-104. Appropriations for employer's contributions. There shall be appropriated from available funds such amounts at such times as may be required by applicable state or federal laws or regulations for employer's contributions, and the same shall be paid over to the state or federal agency designated by said laws or regulations. (1980 Code, § 1-604)

4-105. Records and reports to be made. The recorder shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (1980 Code, § 1-605)

CHAPTER 2

PERSONNEL REGULATIONS

SECTION

4-201. Definitions. As used in these rules the following words and terms shall have the meaning listed:

(1) "Absence without leave." An absence from duty which was not authorized or approved.

(2) "Applicant." An individual who has applied in writing on an application form for employment.

(3) "Appointment." The offer to and acceptance by a person of a position either on a regular or temporary basis.

(4) "Department." The primary organizational unit which is under the immediate charge of a department head who reports directly to the town manager or board of mayor and aldermen.

(5) "Dismissal." A type of disciplinary action which separates an employee from the payroll.

(6) "Employee." An individual who is legally employed and is compensated through the payroll.

(7) "Full-time employees." Individuals who work the equivalent of forty (40) hours or more per week.

(8) "Immediate family." Spouse, children, brother, sister, parents, step-parent, mother and father-in-law, grandparents.

(9) "Lay-off." The involuntary nondisciplinary separation of an employee from a position because of shortage of work, materials, or funds.

(10) "Maternity leave." An absence due to pregnancy, childbirth, or related medical conditions which shall be treated the same as sick leave.

(11) "Occupational disability or injury leave." An excused absence from duty because of an injury or illness sustained in the course of employment and determined to be compensable under the provisions of the Worker's Compensation law.

(12) "Officer." Anyone who has independent discretionary judgment.

(13) "Overtime pay." Compensation paid to an employee for overtime work performed in accordance with these rules.

(14) "Seniority." Length of service as a regular employee in the classified service.

(15) "Sick leave." An absence approved by the department head or supervisor due to non-occupational illness or injury.

(16) "Supervisor." Any individual having authority on behalf of the municipality to assign, direct, or discipline other employees, if the exercise of such authority is not a mere routine or clerical nature, but requires the use of independent judgment.

(17) "Temporary employee." An employee holding a position other than permanent, which is of a temporary, seasonal, casual, or emergency nature.

(18) "Town manager." The town manager as appointed by the board of mayor and aldermen. In the absence of a town manager the mayor shall assume the duties of the town manager.

(19) "Work day" or "work period". Scheduled number of hours an employee is required to work per day or per scheduled number of days. (Ord. #96-006, Nov. 1996, as replaced by Ord. #2001-009, Nov. 2001)

4-202. Coverage. These rules shall apply only to the classified service unless otherwise specifically provided or necessarily implied. The classified service shall include all full-time positions which are not specifically placed in the exempt service. The exempt service shall include the following:

(1) All elected officials and persons appointed to fill vacancies in elective offices.

(2) All members of appointive boards, commissions, or committees.

(3) The city attorney and the town manager (note: the town manager shall be considered an at-will employee, serving at the will and pleasure of the board of mayor and aldermen, and shall not have any property right in his/her position).

(4) Consultants, advisors, and counsel rendering temporary professional service.

(5) Independent contractors.

(6) Temporary employees who are hired to meet the immediate requirements of an emergency condition.

(7) Seasonal employees who are employed for not more than three (3) months during the fiscal year.

(8) Persons rendering part-time service.

(9) Volunteer personnel, such as volunteer firefighters; and all other personnel appointed to serve without compensation. (Ord. #96-006, Nov. 1996, as replaced by Ord. #2001-009, Nov. 2001)

4-203. Recruitment. Individuals shall be recruited in a manner to assure obtaining well-qualified applicants for the various types of positions.

(1) Policy statement. The primary objective of this hiring policy is to insure compliance with the laws and to obtain qualified personnel to serve the citizens of the city. Appointments to positions are based on merit, technical knowledge and work experience and no person shall be employed, promoted, demoted, or discharged, or in any way favored or discriminated against because of race, sex, age, color, religion, creed, ancestry, disability status or national origin.

(2) Recruitment. The city will employ only capable and responsible personnel who are of good character and reputation. When a vacancy occurs the town manager, in cooperation with the respective department head, will prepare and place notice of the position vacancy.

(3) Application process. All persons seeking employment with the city shall complete a standard application form as provided by the city. Applications for employment are only accepted when a position has been advertised, and then shall be accepted in the city business office during regular office hours. The town manager will make reasonable accommodations in the application process to applicants with disabilities making a request for such accommodations.

(4) Medical/agility examination. For certain positions, the employee may be required to undergo a physical agility examination in order to determine

the employees ability to perform the essential functions of the job. The town manager or appropriate department head will make reasonable accommodations in the physical agility exam to applicants with disabilities making a request for such accommodations.

After a job offer has been made, prospective employees in certain classes may be required to undergo a medical examination by a competent examiner designated by the city. Medical examinations shall be at no expense to the employee.

(5) Appointments. Appointments shall be made by the town manager (or in his/her absence, the mayor) or in the case of the town manager, town recorder, chief of police, and town attorney, by the board of mayor and aldermen from those applicants who have been determined to have the required qualifications. (Ord. #96-006, Nov. 1996, as replaced by Ord. #2001-009, Nov. 2001)

4-204. Transfers. Any employee who has successfully completed the probationary period may be transferred to the same or similar position in a different department without being subject to a probationary period. (Ord. #96-006, Nov. 1996, as replaced by Ord. #2001-009, Nov. 2001)

4-205. Compensation. (1) Wages. Wages for all employees shall be determined by the board of mayor and aldermen.

(2) Meal periods. If an employee works five hours or more per shift, he or she must take a 30 minute meal break unless specifically excused by his/her immediate supervisor. This does not apply to police officers or dispatchers. Meal breaks are not considered as hours worked.

(3) Work week / work periods. Pursuant to the Fair Labor Standards Act, an employee work period is a regular recurring period of 168 hours consisting of seven consecutive 24-hour periods. Except as provided in special contracts of employment, public safety employees working under the FLSA 7(k) exemption and employees exempt from FLSA requirements, employees work 40 hours during the work period. The work period begins at 12:00 midnight on Tuesday and ends at 12:00 midnight the Tuesday following. Work schedules may vary in departments as necessary for the smooth operation of the city.

Police officers shall have a 28 day work period in accordance with the 7(k) exemption provided under FLSA. Overtime will be paid to police officers who work more than one hundred seventy-one (171) hours during the twenty-eight (28) day work period. The work period begins at 12:00 midnight on Tuesday and ends at 12:00 midnight twenty-eight (28) days following.

(4) Overtime. Overtime may be authorized only by prior approval of the town manager or his/her designee, except in cases of emergency. Employees required to work overtime shall be compensated in accordance with the Fair Labor Standards Act.

(5) Emergency call out supplement. Each employee who is called out in addition to their regular work schedule for an emergency shall receive a twenty dollar ($20.00) supplement per call out. This will only apply to employees who are compensated by the hour in accordance with Fair Labor Standards Act. (Ord. #96-006, Nov. 1996, as replaced by Ord. #2001-009, Nov. 2001, and amended by Ord. #2004-007, Aug. 2004, Ord. #2004-014, Nov. 2004, and Ord. #2005-014, Nov. 2005)

4-206. Attendance. An employee shall be in attendance at regular work in accordance with these rules and with general department regulations. All departments shall keep daily attendance records of their employees. (Ord. #96-006, Nov. 1996, as replaced by Ord. #2001-009, Nov. 2001)

4-207. Acceptance of gratuities. No municipal officer or employee shall accept any money or other consideration or favor from anyone other than the city for the performance of an act which he would be required or expected to perform in the regular course of his duties; nor shall any officer or employee accept, directly or indirectly, any gift, gratuity, or favor of any kind which might reasonably be interpreted as an attempt to influence his actions with respect to city business. (Ord. #96-006, Nov. 1996, as replaced by Ord. #2001-009, Nov. 2001)

4-208. Business dealings. Except for the receipt of such compensation as may be lawfully provided for the performance of his municipal duties, it shall be unlawful for any municipal officer or employee to be privately interested in, or to profit, directly or indirectly, from business dealings with the city. (Ord. #96-006, Nov. 1996, as replaced by Ord. #2001-009, Nov. 2001)

4-209. Outside employment. No full-time officer or employee of the city shall accept any outside employment without written authorization from the mayor. The mayor shall not grant such authorization if the work is likely to interfere with the satisfactory performance of the officer's or employee's duties, or is incompatible with his municipal employment, or is likely to cast discredit upon or create embarrassment for the city. (Ord. #96-006, Nov. 1996, as replaced by Ord. #2001-009, Nov. 2001)

4-210. Political activity. Town employees may individually exercise their right to vote and express their political views as citizens. However, employees may not engage in any political activity while at work. Employees may not run for election to the board of mayor and aldermen. (Ord. #96-006, Nov. 1996, as replaced by Ord. #2001-009, Nov. 2001)

4-211. Use of municipal time, facilities, etc. No municipal officer or employee shall use or authorize the use of municipal time, facilities, equipment,

or supplies for private gain or advantage to himself or any other private person or group. Provided, however, that this prohibition shall not apply where the board of mayor and aldermen has authorized the use of such time, facilities, equipment, or supplies, and the city is paid at such rates as are normally charged by private sources for comparable services. (Ord. #96-006, Nov. 1996, as replaced by Ord. #2001-009, Nov. 2001)

4-212. Use of position. No municipal officer or employee shall make or attempt to make private purchases, for cash or otherwise, in the name of the City of Bluff City, nor shall he otherwise use or attempt to use his position to secure unwarranted privileges or exemptions for himself or others. (Ord. #96-006, Nov. 1996, as replaced by Ord. #2001-009, Nov. 2001)

4-213. Strikes and unions. No city officer or employee shall participate in any strike against the City of Bluff City, nor shall he join, be a member of, or solicit any other municipal officer or employee to join any labor union which authorized the use of strikes by government employees. (Ord. #96-006, Nov. 1996, as replaced by Ord. #2001-009, Nov. 2001)

4-214. Holiday leave. The following legal holidays shall be observed: New Year's Day, Martin Luther King Birthday, Presidents' Day, Memorial Day, Independence Day, Labor Day, Good Friday, Veteran's Day, two (2) Thanksgiving Days, two (2) Christmas Days, and such other days as may be designated by the board of mayor and aldermen.

Where possible, every city employee shall be given approved holidays as set out in this section. When an employee must work on one of these holidays the employee will receive double pay for time worked. Department heads shall attempt to arrange working schedules to permit time off for holidays in preference to extra pay. Holiday leave shall not be counted as time worked for the purpose of computing overtime during a work period. (Ord. #96-006, Nov. 1996, as replaced by Ord. #2001-009, Nov. 2001, and amended by Ord. #2012-004, March 2012)

4-215. Vacation leave. All permanent full-time employees who have been continuously employed for a period of six (6) months shall be given one (1) week of vacation leave. All permanent full-time employees who have been continuously employed for a period of between six (6) months and up to and including five (5) years shall be given two (2) weeks of vacation leave each year. All permanent full-time employees who have been continuously employed for a period of more than five (5) years shall be given three (3) weeks of vacation leave each year. All permanent full-time employees who have been employed for a period of fifteen (15) years or more shall be given four (4) weeks of vacation leave each year.

All permanent part-time employees who are normally scheduled to work at least 24 hours per week shall be given three (3) days of vacation leave each year.

Employees shall accrue vacation leave from their employment date. Vacation leave may be taken as earned subject to the approval of the mayor or such other officer as he may designate.

Employees may not accrue more than four (4) weeks of vacation leave at any time.

Employees resigning voluntarily and who give at least two weeks notice of intention to resign will receive vacation credit earned as of the date of resignation.

A record shall be kept, for each officer and employee, up to date at all times showing vacation leave taken. (Ord. #96-006, Nov. 1996, as replaced by Ord. #2001-009, Nov. 2001)

4-216. Personal leave. Each permanent full-time employee shall be given three (3) personal leave days for each full year of employment. Personal leave days may be taken subject to the approval of the mayor or such other officer as he may designate.

Employees may not accrue personal leave days from year to year. Such days shall be taken within the year following that in which they are earned or they shall be forfeited.

Employees resigning voluntarily and who give at least two weeks notice of intention to resign will receive credit for personal leave days earned as of the date of resignation. (as added by Ord. #2001-009, Nov. 2001)

4-217. Sick leave. Each permanent full-time employee shall accumulate sick leave at the rate of ½ day for each month of service, or six (6) days per year.

No payment will be made for accrued sick leave upon separation.

Sick leave with pay shall be granted for the following reasons: personal illness or physical incapacity resulting from causes beyond the employee's control. Up to 3 sick days may be used for an illness with the employee's spouse, children, mother or father.

In order to be granted sick leave with pay, an employee must notify the town manager or his/her designee at least ½ hour after the beginning of the scheduled work day of the reason for absence. A medical statement signed by a licensed physician will be required if the period of absence is three consecutive days.

Sick leave with pay may be taken as necessary, but may not be extended beyond the actual number of sick days at the time of absence. Provided, however, that at the request of the employee any accrued vacation balance may be applied and extended as though it were sick leave. Sick leave shall not be counted as time worked for the purpose of computing overtime during a work period. (Ord. #96-006, Nov. 1996, as replaced by Ord. #2001-009, Nov. 2001)

4-218. Bereavement leave. Each permanent full-time employee shall be given three (3) days bereavement leave with pay for the death of a person in the immediate family of the employee. (as added by Ord. #2001-009, Nov. 2001)

4-219. Occupational disability or injury leave. Occupational disability or injury leave shall be granted employees who sustain an injury or an illness during the course of their employment which is determined to be compensable under the provisions of the Worker's Compensation Law.

Employees on occupational disability leave shall receive such benefits in lieu of pay as are provided by the Worker's Compensation Law. (Ord. #96-006, Nov. 1996, as replaced by Ord. #2001-009, Nov. 2001)

4-220. Leave without pay. A regular employee may be granted a leave of absence without pay for a period not to exceed one year for temporary sickness, disability, or for other good and sufficient reason, or upon written advice of doctor with medical prognosis of patient. Such leave shall require the prior approval of the town manager. Any such leave is subject to review by the town manager periodically to ascertain that leave is still justified. (Ord. #96-006, Nov. 1996, as replaced by Ord. #2001-009, Nov. 2001)

4-221. Prohibitions. No person shall be appointed to, or promoted to, or demoted, or dismissed from any position in the classified service, or in any way be favored or discriminated against with respect to employment in the classified service because of race, religion, national origin, political affiliation, disability, sex, or age.

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

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

No person shall, directly or indirectly, give, render, pay, offer, solicit, or accept any money, service, or other valuable consideration for or on account of any appointment or promotion, or any advantage in a position in the classified service. (as replaced by Ord. #2001-009, Nov. 2001)

4-222. Separations. All separations of employees from positions in the classified service shall be designated as one of the following types and shall be accomplished in the manner indicated: resignation, lay-off, disability (inability to perform the essential functions of the job with or without reasonable

accommodations), death, and dismissal. At the time of separation and prior to final payment, all records, equipment, and other items of city property in the employee's custody shall be transferred to the department head. Any amount due to a shortage in the above shall be withheld from the employee's final compensation.

(1) Resignation. An employee may resign by submitting in writing the reasons and the effective date, to his/her department head as far in advance as possible, but a minimum of two weeks notice is requested. Unauthorized absence from work for a period of three consecutive days may be considered by the department head as a resignation. Department heads shall forward all notices of resignation to the town manager immediately upon receipt.

(2) Lay-off. The town manager may lay-off any employee when he/she deems it necessary by reason of shortage of funds or work, the abolition of a position, or other material changes in the duties or organization, or for related reasons which are outside the employee's control and which do not reflect discredit upon service of the employee. Temporary employees shall be laid off prior to probationary or regular employees. The order of lay-off shall be in reverse order.

(3) Disability. An employee may be separated for disability when unable to perform the essential functions of the job because of a physical or mental impairment which cannot be reasonably accommodated by the city without undue hardship. Action may be initiated by the employee or the city, but in all cases it may be supported by medical evidence acceptable to the town manager. The municipality may require an examination at its expense and performed by a licensed physician of its choice.

(4) Death. Separation will be effective as of the date of death of an employee. All compensation due in accordance with these policies shall be paid to the estate of the employee, except for such sums as by law must be paid to the surviving spouse.

(5) Dismissal. The town manager may dismiss an employee for just cause that is good for the city service. Reasons for dismissal may include, but are not limited to, misconduct, negligence, incompetence, insubordination, unauthorized absences, falsification of records, violation of any of the provisions of the charter, ordinances, or these rules.

When the decision to dismiss an employee has been reached, the employee shall be furnished an advance written notice containing the nature of the proposed action, the reasons therefore, and the right to a hearing. The notice shall include notice of a time and place for the hearing. The notice shall be delivered to the employee in person, or mailed to him/her at his last known address by registered or certified United States Mail, by any authorized agent of the board or of the town manager, at least ten (10) days prior to the date of the hearing.

If the board of mayor and aldermen has the appointment and removal power over the officer or employee, the hearing shall be before the board. If the

town manager has the appointment and removal power over the officer or employee, the hearing shall be before the town manager. The hearing shall be a public hearing and the accused shall have the right to be represented by counsel, and to call witnesses in his/her behalf. However, technical niceties of pleadings and the rules of evidence shall not apply in such hearings. The decision of the board, or the town manager, whichever the case may be, shall be final except for appeals to the courts. (Ord. #96-006, Nov. 1996, as replaced by Ord. #2001-009, Nov. 2001)

4-223. Disciplinary action. Whenever an employee's performance, attitude, work habits, or personal conduct fall below a desirable level, the town manager, or supervisor shall inform the employee of such lapses. If appropriate and justified, a reasonable period of time for improvement may be allowed before initiating disciplinary action. In some instances, a specific incident in and of itself may justify severe initial disciplinary action; however, the action to be taken depends on the seriousness of the incident and the whole pattern of the employee's past performance and conduct. The types of disciplinary actions are:

(1) Oral reprimand. The town manger or supervisor will place a memo in the employee's file stating the date of the oral reprimand, what was said to the employee, and the employee's response.

(2) Written reprimand. A written reprimand may be sent to the employee and a copy shall be placed in the employee's personnel folder.

(3) Suspension. An employee may be suspended with or without pay. A written notice of the suspension and the reasons therefore shall be given to the employee and placed in the employee's file.

(4) Demotion/dismissal. The right to a hearing for just cause shall be provided to the employee in the case of dismissal, as described in § 4-222(5). (Ord. #96-006, Nov. 1996, as replaced by Ord. #2001-009, Nov. 2001)

4-224. Grievance procedure. The purpose of this section is to prescribe uniform disposition procedures of grievances presented by individual employees. A grievance is a written question, disagreement, or misunderstanding concerning administrative orders involving only the employee's work area, reasonable accommodations under the Americans with Disabilities Act, physical facilities, unsafe equipment, or unsafe material used. The grievance must be submitted within five (5) working days of the incident causing the grievance.

Employees must remember that there is no grievance until the supervisor or other appropriate person has been made aware of the dissatisfaction by written notice. Once this is done, the following steps are to be taken:

Step 1. Discuss the problem with the supervisor. If satisfaction is not obtained, the grievance is advanced to the second step.

Step 2. Discuss the problem with the appropriate department head (if applicable). If the grievance is not resolved, it is advanced to the third step along with all documentation.

Step 3. Discuss the problem with the town manager. The town manager's decision is the last and final step in the process. The decision of the town manager is final and binding to all parties involved. (as added by Ord. #2001-009, Nov. 2001)

4-225. Drug and alcohol policy. (1) Notice. The City of Bluff City has a legal responsibility and management obligation to ensure a safe work environment, as well as paramount interest in protecting the public by ensuring that its employees have the physical stamina and emotional stability to perform their assigned duties. There is sufficient evidence to conclude that the use of illegal drugs/alcohol, drug/alcohol dependence and drug/alcohol abuse seriously impair an employee's performance and general physical and mental health. The illegal possession and use of drugs, alcohol and/or narcotics by employees of the city is a crime in this jurisdiction and clearly unacceptable. Employees must be free from drug or alcohol dependence, illegal drug use, or drug/alcohol abuse.

(2) General rules. (a) Employees shall not take or be under the influence of any narcotics or dangerous substance unless prescribed by the employee's licensed physician. The employee shall immediately notify his/her supervisor if such is prescribed, and if the consumption of such is expected to affect the proper performance of the employee's job.

(b) Employees are prohibited from the use, possession and sale of drugs, alcohol or any other controlled substance.

(c) All property belonging to the city is subject to inspection at any time without notice as there is no expectation of privacy.

(i) Property includes, but is not limited to, vehicles, desks, containers, files and storage lockers.

(ii) Employees assigned lockers (that are locked by the employee) are also subject to inspection by the employee's supervisor after reasonable advance notice (unless waived by the town manager) and in the presence of the employee.

(iii) City employees who have reason to believe another employee is illegally using drugs or narcotics shall report the facts and circumstances immediately to the supervisor.

(3) Drug and alcohol testing policy. The City of Bluff City has a Drug and Alcohol Testing Policy which is herein referred to by reference. All employees are expected to abide by the contents of the policy. (Ord. #96-006, Nov. 1996, as replaced by Ord. #2001-009, Nov. 2001)

4-226. Trip/travel reimbursement. All trips that involve reimbursement and/or city expense shall not be undertaken without prior approval of the mayor or town manager. The city's official travel policy, herein

incorporated by reference, shall apply to all travel. (Ord. #96-006, Nov. 1996, as replaced by Ord. #2001-009, Nov. 2001)

4-227 Sexual harassment. Sexual harassment includes conduct directed by men toward women, conduct directed by men toward men, conduct directed by women toward men, and conduct by women toward women. Consequently, this policy applies to all officers and employees of the City of Bluff City, including but not limited to, full and part-time employees, elected officials, permanent and temporary employees, employees covered or exempt from the personnel rules or regulation of the city, and employees working under contract for the city.

Sexual harassment or unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature in the form of pinching, grabbing, patting, propositioning; making either explicit or implied job threats or promises in return for submission to sexual favors; making inappropriate sex-oriented comments on appearance; telling embarrassing sex-oriented stories; displaying sexually explicit or pornographic material, no matter how it is displayed; or sexual assault on the job by supervisors, fellow employees, or on occasion, non-employees when any of the foregoing unwelcome conduct affects employment decisions, makes the job environment hostile, distracting, or unreasonably interferes with work performance is an unlawful employment practice and is absolutely prohibited by the city.

The city will not tolerate the sexual harassment of its employees. The city will take immediate, positive steps to stop it when it occurs. An employee who feels he/she is being subjected to sexual harassment should immediately contact one of the persons below with whom the employee feels the most comfortable. Complaints may be made orally or in writing to:

(1) The employee's supervisor.
(2) The employee's department head.
(3) The town manager.
(4) The mayor.

Employees have the right to circumvent the employee chain of command in selecting which person to whom to make a complaint of sexual harassment. The employee should be prepared to provide the following information:

(a) Official's or employee's name, department, and position title.

(b) The name of the person or persons committing the sexual harassment, including their title/s, if known.

(c) The specific nature of the sexual harassment, how long it has gone on, and any employment action (demotion, failure to promote, dismissal, refusal to hire, transfer, etc.) taken against the employee as a result of the harassment, or any other threats made against the employee as a result of the harassment.

(d) Witnesses to the harassment.

(e) Whether the employee has previously reported the harassment and, if so, when and to whom. (Ord. #96-006, Nov. 1996, as replaced by Ord. #2001-009, Nov. 2001)

4-228. Police training reimbursement. New employees of the police department shall sign and abide by a training reimbursement agreement. The agreement will provide a reimbursement from the employee to the city so that the city will recover all or part of the cost of training the new employee in the event the employee voluntarily resigns employment within a specified period of time. (Ord. #96-006, Nov. 1996, as replaced by Ord. #2001-009, Nov. 2001)

4-229. Special note. These personnel policies are believed to be written within the framework of the Charter of the City of Bluff City, but in case of conflict, the charter takes precedence. (Ord. #96-006, Nov. 1996, as replaced by Ord. #2001-009, Nov. 2001)

4-230. Amendment of personnel rules. Amendments or revisions to these rules may be recommended for adoption by the mayor or by any member of the board of mayor and aldermen. Such amendments or revisions of these rules shall become effective upon adoption by a majority vote of the governing body by ordinance. (Ord. #96-006, Nov. 1996, as replaced by Ord. #2001-009, Nov. 2001)

4-231. Police officers - fitness for duty. All employees of the police department shall, during their employment, be required to undergo periodic examinations to determine their physical and mental fitness to continue to perform the work of their positions. This examination shall also include a drug and alcohol test. This periodic examination shall be at no expense to the employee. Determination of physical or mental fitness will be made by a physician designated by the city. When a police department employee is reported by the examining physician to be physically or mentally unfit to perform work in the position for which he/she is employed, the employee may, within ten (10) days from the date of his/her notification of such determination, indicate in writing to the mayor, his/her intention to submit the question of his/her physical or mental unfitness to a physician of his/her own choice.

In the event there is a difference of opinion between the examining physician designated by the city and the physician chosen by the employee, a third physician shall be mutually agreed upon and designated by both physicians. The third physician's decision shall be final and binding as to the physical or mental fitness of the employee. The city shall pay its physician, the employee shall pay his/her physician, and the third physician shall be paid 50% by the city and 50% by the employee.

The drug and alcohol-testing component of the periodic examination shall be made in accordance with the provisions of the city's drug and alcohol policy. The results of a positive test shall be subject to the provisions of the same policy.

Police department employees determined to be physically or mentally unfit to continue in their positions may be demoted according to these rules, or they may be separated from the city service only after it has been determined that they:

(1) Cannot perform the essential functions of their position;

(2) Pose a direct threat to themselves and/or others;

(3) Are unable to perform the essential functions due to a temporary condition or disability not protected by the ADA; or

(4) Have a positive result on the drug or alcohol component of the examination. (as added by Ord. #2004-007, Aug. 2004)

4-232. <u>Police officers--off duty employment</u>. The following is the policy governing off-duty employment by police officers:

(1) All requests for off-duty employment shall be routed through the chief of police and prior approval shall be required by the town manager before entering into an agreement for, or engaging in, off-duty employment.

(2) No officers may work in police/security related off-duty employment prior to completion of the basic training course required by the State of Tennessee and have completed any required basic training by the department.

(3) The chief of police shall maintain a roster of any officer desiring off-duty employment and authorized by the department for off-duty employment assignments. The chief of police shall make the assignments for off-duty employment once approval has been gained from the town manager.

(4) The town shall require the police officer to provide the town with a written description of the task that will be performed during the off-duty employment activities.

(5) The chief of police shall maintain a current list of off-duty employers which are utilizing officers from the town. The list shall include business or other names of employer, location the officer is involved in the employment at that location and the hours the officer will be employed by the off-duty employer.

(6) The employees will be prohibited from engaging in the following occupations during off-duty employment activities:

(a) Bar tending;
(b) Taxi driver;
(c) Bouncers;
(d) Private investigators;
(e) Body guards;
(f) Polygraph examiners;
(g) Emergency medical provider;
(h) Private fire or codes inspector;

(i) Male or female dancer;

(j) Hired to repossess property.

(7) The town shall require the police officer (employee) and off-duty employer to both sign legal statements agreeing to indemnify and hold the town harmless from all claims and damages.[1]

(8) Off-duty employers shall provide the town with a certificate of insurance for liability coverage for police/security-related exposures in the minimum amount of one million dollars ($1,000,000.00). The off-duty employer shall also be required to provide a certificate of insurance showing proof of worker compensation coverage.

(9) The town will establish a maximum number of hours per week police officers can engage in off-duty employment activities.

(10) The police officer is prohibited from wearing department uniform, or using 'department weapon, badge, vehicle or other items or equipment issued the officer by the town and exercising any official police power concurrent with off-duty activities outside the town limits unless the police officer is made a special deputy by the Sullivan County Sheriff.

(11) All authorization to work off-duty employment is immediately and automatically suspended whenever the employee is:

(a) Placed on light duty;

(b) Relieved of duty;

(c) Injured such that is has become impracticable or dangerous to engage in off-duty employment;

(d) On military leave;

(e) Scheduled for any official activity such as court, training, special events, etc.;

(f) Unable to report for regular duty or court due to illness, or illness in the family, until they have subsequently completed a full tour of regular duty or a time period of twenty-four (24) hours has elapsed since the scheduled reporting time.

(g) Involved in a conflict or apparent conflict of interest between on-duty and off-duty responsibilities.

(12) A complete incident report must be filed by the off-duty officer following any accident or injury to the officer or a member of the general public occurring during the course of, and within the scope of their off-duty employment. The documentation should include:

(a) The date of the accident/injury;

(b) The time of day;

(c) The injured person's name, address, and phone number;

(d) The name of the injured person's parent or guardian, if a minor child;

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[1]Exhibits A and B are available in the office of the city recorder.

(e) The names and phone numbers of any witnesses; and

(f) A complete description of the events and circumstances surrounding the accident or injury.

These incident reports should be retained on file by the chief of police.

(13) It shall be in the discretion of the town manager whether or not a police officer will be allowed to use his uniform and/or town equipment in off-duty employment. The analysis should include benefit to the town. Inside the town limits is a direct benefit. Outside the town limits could be an indirect benefit for example the races at Bristol Motor Speedway. No police officer shall use any Town equipment in off-duty employment whatsoever outside the town limits unless subsection (10) hereinabove is complied with.

(14) Any additional requirements made by federal, state and/or local regulations which place further restrictions or guidelines upon off-duty employment of police officers must be followed.

(15) In order to reduce risk exposure the provisions in this policy must be properly supervised, documented and controlled. (as added by Ord. #2006-022, Dec. 2006)

4-233. <u>Social media use and Internet posting policy</u>.

(1) <u>Applicability</u>. (a) This policy applies to every employee, whether part-time, full-time, currently employed by the town in any capacity who posts any material whether written, audio, video or otherwise on any Web site, blog or any other medium accessible via the Internet.

(b) For purposes of this policy social media is content created by individuals using accessible and scalable technologies through the Internet. Examples include: Facebook, blogs, MySpace, RSS, YouTube, Second Life, Twitter, LinkedIn, Google Wave, etd.

(2) <u>City owned or created social media</u>. (a) The town maintains an online presence. An employee may not characterize him or herself as representing the town, directly or indirectly, in any online posting unless pursuant to a written policy of the town or the direction of a supervisor.

(b) All town social media sites directly or indirectly representing to be an official statement of the town must be created pursuant to this policy and be approved by the city manager.

(c) The town's primary and predominant internet presence shall remain bluffcitytn.org and no other Web site, blog or social media site shall characterize itself as such.

(d) The city manager is responsible for the content and upkeep of any social media sites created pursuant to this policy.

(e) Whenever possible a social media site shall link or otherwise refer visitors to the town's main Web site.

(f) In addition to this policy all social media sites shall comply with any and every other applicable city policy including but not limited to:

(i) Open records policy;
(ii) Internet use policy;
(iii) IT security policy;
(iv) Ethics policy;
(v) Records retention policy.

(g) A social media site is subject to Tennessee's Public Records Act[1] and Open Meetings Act[2] and no social media site shall be used to circumvent or otherwise in violation of these laws. All information posted on a social media site shall be a public record and subject to public inspection. All lawful records requests for information contained on a social media site shall be fulfilled by the city recorder and any employee whose assistance is necessitated. Every social media site shall contain a clear and conspicuous statement referencing the aforementioned state laws. All official postings on a social media site shall be preserved in accordance with the town's records retention schedule.

(h) A social media site shall also contain a clear and conspicuous statement that the purpose of the site is to serve as a mechanism for communication between the town and its constituents and that all postings are subject to review and deletion by the town. The following content is not allowed and will be immediately removed and may subject the poster to banishment from all city social media sites:

(i) Comments not topically related to the particular social medium article being commented upon;
(ii) Comments in support of or opposition to political campaigns or ballot measures;
(iii) Profane language or content;
(iv) Content that promotes, fosters, or perpetuates discrimination on the basis of face, creed, color, age, religion, gender, marital status, status with regard to public assistance, national origin, physical or mental disability or sexual orientation;
(v) Sexual content or links to sexual content;
(vi) Solicitations of commerce;
(vii) Conduct or encouragement of illegal activity;

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[1]State law reference
Tennessee Code Annotated, § 10-7-101, et seq.

[2]State law reference
Tennessee Code Annotated, § 8-44-101, et seq.

(viii) Information that may tend to compromise the safety or security of the public or public systems; or

(ix) Content that violates a legal ownership interest of any other party.

(i) The town will approach the use of social media tools, software, hardware and applications in a consistent, citywide manner. All new tools, software, hardware and applications must be approved by city manager.

(j) Administration of city social media sites. The city manager will maintain a list of all social media sites, including login and password information. Employees and officials will inform the administrative changes to existing sites.

The town must be able to immediately edit or remove content from social media sites.

(k) For each social media tool approved for use by the town the following documentation will be developed and adopted:

(i) Operational and use guidelines;

(ii) Standards and processes for managing accounts on social media sites;

(iii) City and departmental branding standards;

(iv) Enterprise-wide design standards;

(v) Standards for the administration of social media sites.

(3) Non-city social media sites. (a) An employee may not characterize him or herself as representing the city, directly or indirectly, in any online posting unless pursuant to a written policy of the town or the direction of a supervisor.

(b) The use of a town e-mail address, job title, official town name, seal or logo shall be deemed an attempt to represent the town in an official capacity. Other communication leading an average viewer to conclude that a posting was made in an official capacity shall also be deemed an attempt to represent the town in an official capacity.

(c) Departments have the option of allowing employees to participate in existing social networking sites as part of their job duties. Department heads may allow or disallow employee participation in any social media activities in their departments.

(d) Any postings on a non-city social media site made in an official capacity shall be subject to the Tennessee Open Records Act and the Tennessee Open Meetings Act.

(e) An employee or official posting on a social media site shall take reasonable care not to disclose any confidential information in any posting.

(f) When posting in a non-official capacity an employee or official shall take reasonable care not to identify themselves as an official or employee of the town. When the identity of an employee or official

posting on a non-city social media site is apparent, the employee or official shall clearly state that he or she is posting in a private capacity.

(4) Violation. Violation of this section can lead to an employee being disciplined up to and including termination. (as added by Ord. #2011-017, Sept. 2011)

CHAPTER 3

DRUG AND ALCOHOL TESTING POLICY

SECTION

4-301. Purpose. The Town of Bluff City recognizes that the use and abuse of drugs and alcohol in today's society is a serious problem that may involve the workplace. It is the intent of the Town of Bluff City to provide all employees with a safe and secure workplace in which each person can perform his/her duties in an environment that promotes individual health and workplace efficiency. Employees of the Town of Bluff City are public employees and must foster the public trust by preserving employee reputation for integrity, honesty, and responsibility.

To provide a safe, healthy, productive, and drug-free working environment for its employees to properly conduct the public business, the Town of Bluff City has adopted this drug and alcohol testing policy effective January 1, 1996. This policy complies with the Drug-Free Workplace Act of 1988, which ensures employees the right to work in an alcohol and drug-free environment and to work with persons free from the effects of alcohol and drugs; Federal Highway Administration (FHWA) rules, which require drug and alcohol testing for persons required to have a commercial driver's license (CDL); Division of Transportation (DOT) rules, which include procedures for urine drug testing and breath alcohol testing; and the Omnibus Transportation Employee Testing Act of 1991, which requires alcohol and drug testing of safety-sensitive employees in the aviation, motor carrier, railroad, pipeline, commercial marine, and mass transit industries. In the case of this policy, the Omnibus Transportation Employee Testing Act of 1991 is most significant with its additional requirement of using the "split specimen" approach to drug testing, which provides an extra

safeguard for employees. The types of tests required are: pre-employment, transfer, reasonable suspicion, post-accident (post-incident), random, return-to-duty, and follow-up.

It is the policy of the Town of Bluff City that the use of drugs by its employees and impairment in the workplace due to drugs and/or alcohol are prohibited and will not be tolerated. Engaging in prohibited and/or illegal conduct may lead to termination of employment. Prohibited and/or illegal conduct includes but is not limited to:

(1) Being on duty or performing work in or on town property while under the influence of drugs and/or alcohol;

(2) Engaging in the manufacture, sale, distribution, use, or unauthorized possession of (illegal) drugs at any time and of alcohol while on duty or while in or on town property;

(3) Refusing or failing a drug and/or alcohol test administered under this policy;

(4) Providing an adulterated, altered, or substituted specimen for testing;

(5) Use of alcohol within four hours prior to reporting for duty on schedule or use of alcohol while on-call for duty; and

(6) Use of alcohol or drugs within eight hours following an accident (incident) if the employee's involvement has not been discounted as a contributing factor in the accident (incident) or until the employee has successfully completed drug and/or alcohol testing procedures.

This policy does not preclude the appropriate use of legally prescribed medication that does not adversely affect the mental, physical, or emotional ability of the employee to safely and efficiently perform his/her duties. It is the employee's responsibility to inform the proper supervisory personnel of his/her use of such legally prescribed medication before the employee goes on duty or performs any work.

In order to educate the employees about the dangers of drug and/or alcohol abuse, the town shall sponsor an information and education program for all employees and supervisors. Information will be provided on the signs and symptoms of drug and/or alcohol abuse; the effects of drug and/or alcohol abuse on an individual's health, work, and personal life; the town's policy regarding drugs and/or alcohol; and the availability of counseling. The city recorder has been designated as the municipal official responsible for answering questions regarding this policy and its implementation. All Town of Bluff City property may be subject to inspection at any time without notice. There should be no expectation of privacy in such property. Property includes, but is not limited to, vehicles, desks, containers, files, and lockers. (Ord. #96-007, Nov. 1996)

4-302. <u>Scope</u>. Certain aspects of this policy may apply to full-time, part-time, temporary, and volunteer employees of the Town of Bluff City. The policy also applies to applicants for positions requiring a CDL and other safety

sensitive positions who have been given a conditional offer of employment from the Town of Bluff City. (Ord. #96-007, Nov. 1996)

4-303. Consent form. Before a drug and/or alcohol test is administered, employees and applicants will be asked to sign a consent form authorizing the test and permitting release of test results to the laboratory, medical review officer (MRO), (city manager), or his/her designee. The consent form shall provide space for employees and applicants to acknowledge that they have been notified of the town's drug and alcohol testing policy.

The consent form shall set forth the following information:

(1) The procedure for confirming and verifying an initial positive test result;

(2) The consequences of a verified positive test result; and

(3) The consequences of refusing to undergo a drug and/or alcohol test.

The consent form also provides authorization for certified or licensed attending medical personnel to take and have analyzed appropriate specimens to determine if drugs or alcohol were present in the employee's system. (Ord. #96-007, Nov. 1996)

4-304. Compliance with substance abuse policy. Compliance with this substance abuse policy is a condition of employment. The failure or refusal by an applicant or employee to cooperate fully by signing necessary consent forms or other required documents or the failure or refusal to submit to any test or any procedure under this policy in a timely manner will be grounds for refusal to hire or for termination. The submission by an applicant or employee of a urine sample that is not his/her own or is adulterated shall be grounds for refusal to hire for termination. (Ord. #96-007, Nov. 1996)

4-305. General rules. These are the general rules governing the Town of Bluff City's drug and alcohol testing program:

(1) Town employees shall not take or be under the influence of any drugs unless prescribed by the employee's licensed physician. Employees who are required to take prescription and/or over-the-counter medications shall notify the proper supervisory personnel before the employees go on duty.

(2) Town employees are prohibited from engaging in the manufacture, sale, distribution, use, or unauthorized possession of illegal drugs at any time and of alcohol while on duty or while in or on town property.

(3) All Town of Bluff City property is subject to inspection at any time without notice. There should be no expectation of privacy in or on such property. Town property includes, but is not limited to, vehicles, desks, containers, files, and lockers.

(4) Any employee convicted of violating a criminal drug statute shall inform the director of his/her department of such conviction (including pleas of guilty and nolo contendere) within five days of the conviction occurring. Failure

to so inform the town subjects the employee to disciplinary action up to and including termination for the first offense. The town will notify the federal contracting officer pursuant to applicable provisions of the Drug-Free Workplace Act and the Omnibus Transportation Employee Testing Act.

(5) Employees engaged in the performance of a Housing and Urban Development (HUD) grant will be given a copy of this statement.

(6) As a condition for employment under the HUD grant, the employee will

(a) Abide by the terms of this statement; and

(b) Notify the town in writing of his or her conviction of a violation of a criminal drug statue occurring in the workplace no later than five (5) calendar days after such conviction.

(7) The town will notify the grant agency in writing, within ten (10) calendar days after receiving notice under item (6) above from an employee or otherwise receiving actual notice of such conviction, to provide notice, including position title, to the Director, Office of Federal Assistance, Office of Federal Assistance and Management Support, HCHB Room 6054, U. S. Department of Commerce, Washington, DC 20230. Notice shall include the identification number(s) of each affected grant.

(8) The town will take one of the following actions, within thirty (30) calendar days of receiving notice under item (6) above, with respect to any employee who is so convicted-

(a) Such employee is subject to appropriate disciplinary action, up to and including termination of employment, consistent with the requirement of the Rehabilitation Act of 1973, as amended.

(b) Such employee will be referred to a substance abuse professional (SAP) for evaluation, referral, and treatment. The referral to the SAP applies even if the employee is terminated. (Ord. #96-007, Nov. 1996, as amended by Ord. #2002-011, Nov. 2002)

4-306. <u>Drug testing</u>. An applicant or employee must carry and present a current and recent photo ID to appropriate personnel during testing. Failure to present a photo ID is equivalent to refusing to take the test. Employees and applicants may be required to submit to drug testing under six separate conditions:

(1) <u>Types of tests</u>. (a) <u>Pre-employment</u>. All applicants for employment who have received a conditional offer of employment with the Town of Bluff City, must take a drug test before receiving a final offer of employment.

(b) <u>Transfer</u>. Employees transferring to [fire department, police department, gas department, and transit department] and/or another position within the town that requires a commercial driver's license (CDL) shall undergo drug testing.

(c) Post-accident/post-incident testing. Following any workplace accident (incident) determined by supervisory personnel of the Town of Bluff City to have resulted in significant property or environmental damage or in significant personal injury, including but not limited to a fatality or human injury requiring medical treatment, each employee whose performance either contributed to the accident (incident) or cannot be discounted as a contributing factor to the accident (incident) and who is reasonably suspected of possible drug use as determined during a routine post-accident (post-incident) investigation or who receives a citation for a moving violation arising from the accident will be required to take a post-accident (post-incident) drug test.

Post-accident (post-incident) testing shall be carried out within 32 hours following the accident (incident). Urine collection for post-accident (post-incident) testing shall be monitored or observed by same-gender collection personnel at the established collection site(s).

In instances where post-accident (post-incident) testing is to be performed, the Town of Bluff City reserves the right to direct the medical review officer (MRO) to instruct the designated laboratory to perform testing on submitted urine specimens for possible illegal/illegitimate substances.

Any testing for additional substances listed under the Tennessee Drug Control Act of 1989 as amended shall be performed at the urinary cutoff level that is normally used for those specific substances by the laboratory selected.

(i) Post-accident (post-incident) testing for ambulatory employees. Following all workplace accidents (incident) where drug testing is to be performed, unless otherwise specified by the department head, affected employees who are ambulatory will be taken by a supervisor or designated personnel of the Town of Bluff City to the designated urine specimen collection site within 32 hours following the accident. In the event of an accident (incident) occurring after regular work hours, the employees will be taken to the (testing site) within 32 hours. No employee shall consume drugs prior to completing the post-accident (post-incident) testing procedures.

No employee shall delay his/her appearance at the designated collection site(s) for post-accident (post-incident) testing. Any unreasonable delay in providing specimens for drug testing shall be considered a refusal to cooperate with the substance abuse program of the Town of Bluff City and shall result in administrative action up to and including termination of employment.

(ii) Post-accident (post-incident) testing for injured employees. An affected employee who is seriously injured,

non-ambulatory, and/or under professional medical care following a significant accident (incident) shall consent to the obtaining of specimens for drug testing by qualified, licensed attending medical personnel and consent to the testing of the specimens. Consent shall also be given for the attending medical personnel and/or medical facility (including hospitals) to release to the medical review officer (MRO) of the Town of Bluff City appropriate and necessary information or records that would indicate only whether or not specified prohibited drugs (and what amounts) were found in the employee's system. Consent shall be granted by each employee at the implementation date of the substance abuse policy of the Town of Bluff City or upon hiring following the implementation date.

Post-accident (post-incident) urinary testing may be impossible for unconscious, seriously-injured, or hospitalized employees. If this is the case, certified or licensed attending medical personnel shall take and have analyzed appropriate specimens to determine if drugs were present in the employee's system. Only an accepted method for collecting specimens will be used. Any failure to do post-accident (post-incident) testing within 32 hours must be fully documented by the attending medical personnel.

(d) Testing based on reasonable suspicion. A drug test is required for each employee where there is reasonable suspicion to believe the employee is using or is under the influence of drugs and/or alcohol.

The decision to test for reasonable suspicion must be based on a reasonable and articulate belief that the employee is using or has used drugs. This belief should be based on recent, physical, behavioral, or performance indicators of possible drug use. One supervisor who has received drug detection training that complies with DOT regulations must make the decision to test and must observe the employee's suspicious behavior.

Supervisory personnel of the Town of Bluff City making a determination to subject any employee to drug testing based on reasonable suspicion shall document their specific reasons and observations in writing to the mayor or city manager within 24 hours of the decision to test and before the results of the urine drug tests are received by the department. Urine collection for reasonable suspicion testing shall be monitored or observed by same-gender collection personnel.

(e) Random testing. Only employees of the Town of Bluff City possessing or wishing to obtain a commercial driver's license (CDL) to operate a Commercial Motor Vehicle (CMV) are subject to random urine drug testing. It is the policy of the Town of Bluff City to random test for

drugs at least 50 percent of the total number of drivers possessing a commercial driver's license (CDL) who operate a Commercial Motor Vehicle.

A minimum of 15 minutes and a maximum of two hours will be allowed between notification of an employee's selection for random urine drug testing and the actual presentation for specimen collection.

Random donor selection dates will be unannounced with unpredictable frequency. Some may be tested more than once each year while others may not be tested at all, depending on the random selection.

If an employee is unavailable (i.e., vacation, sick day, out of town, work-related causes, etc.) to produce a specimen on the date random testing occurs, the Town of Bluff City may omit that employee from that random testing or await the employee's return to work.

(f) Return-to-duty and follow-up. Any employee of the Town of Bluff City who has violated the prohibited drug conduct standards and is allowed to return to work, must submit a return-to-duty test. Follow-up tests will be unannounced, and at least six tests will be conducted in the first 12 months after an employee returns to duty. Follow-up testing may be extended for up to 60 months following return to duty. The employee will be required to pay for his or her return-to-duty and follow-up tests accordingly.

Testing will also be performed on any employee possessing a CDL returning from leave or special assignment in excess of six months. In this situation, the employee will not be required to pay for the testing.

(2) Prohibited drugs. All drug results will be reported to the medical review officer (MRO). If verified by the MRO, they will be reported to the city manager. The following is a list of drugs for which tests will be routinely conducted (see Appendix A for cutoff levels):

(1) Amphetamines;
(2) Marijuana;
(3) Cocaine;
(4) Opiates;
(5) Phencyclidine (PCP);
(6) Alcohol; and
(7) Depressants.

The town may test for any additional substances listed under the Tennessee Drug Control Act of 1989.

(3) Drug testing collection procedures. Testing will be accomplished as non-intrusively as possible. Affected employees, except in cases of random testing, will either be taken by a supervisor or designated personnel of the Town of Bluff City to a drug test collection facility selected by the Town of Bluff City (see Appendix A), where a urine sample will be taken from the employee in privacy. The urine sample will be immediately sealed by personnel overseeing the specimen collection after first being examined by these personnel for signs

of alteration, adulteration, or substitution. The sample will be placed in a secure mailing container. The employee will be asked to complete a chain-of-custody form to accompany the sample to a laboratory selected by the Town of Bluff City to perform the analysis on collected urine samples.

(4) Drug testing laboratory standards and procedures. All collected urine samples will be sent to a laboratory that is certified and monitored by the federal Department of Health and Human Services (DHHS). As specified earlier, in the event of an accident (incident) occurring after regular work hours, the supervisor or designated personnel shall take the employee(s) to the (testing site) within 32 hours where proper collection procedures will be administered.

The Omnibus Act requires that drug testing procedures include split specimen procedures. Each urine specimen is subdivided into two bottles labeled as a "primary" and a "split" specimen. Both bottles are sent to a laboratory. Only the primary specimen is opened and used for the urinalysis. The split specimen bottle remains sealed and is stored at the laboratory. If the analysis of the primary specimen confirms the presence of drugs, the employee has 72 hours to request sending the split specimen to another federal Department of Health and Human Services (DHHS) certified laboratory for analysis. The employee will be required to pay for his or her split specimen test(s).

For the employee's protection, the results of the analysis will be confidential except for the testing laboratory. After the MRO has evaluated a positive test result, the employee will be notified, and the MRO will notify the city manager.

(5) Reporting and reviewing. The Town of Bluff City shall designate a medical review officer (MRO) to receive, report, and file testing information transmitted by the laboratory. This person shall be a licensed physician with knowledge of substance abuse disorders.

(a) The laboratory shall report test results only to the designated MRO, who will review them in accordance with accepted guidelines and the procedures adopted by the Town of Bluff City.

(b) Reports from the laboratory to the MRO shall be in writing or by fax. The MRO may talk with the employee by telephone upon exchange of acceptable identification.

(c) The testing laboratory, collection site personnel, and MRO shall maintain security over all the testing data and limit access to such information to the following: the respective department head, the city manager and the employee.

(d) Neither the Town of Bluff City, the laboratory, nor the MRO shall disclose any drug test results to any other person except under written authorization from the affected employee, unless such results are necessary in the process of resolution of accident (incident) investigations, requested by court order, or required to be released to parties (i.e., DOT, the Tennessee Department of Labor, etc.) having a legitimate

right-to-know as determined by the city attorney. (Ord. #96-007, Nov. 1996, as amended by Ord. #2006-016, Sept. 2006)

4-307. Alcohol testing. An applicant or employee must carry and present a current and recent photo ID to appropriate personnel during testing. Failure to present a photo ID is equivalent to refusing to take the test. Employees and applicants may be required to submit to alcohol testing under six separate conditions:

(1) Types of tests. (a) Post-accident/post-incident testing. Following any workplace accident (incident) determined by supervisory personnel if the Town of Bluff City to have resulted in significant property or environmental damage or in significant personal injury, including but not limited to a fatality or human injury requiring medical treatment, each employee whose performance either contributed to the accident (incident) or cannot be discounted as a contributing factor to the accident (incident) and who is reasonably suspected of possible alcohol use as determined during a routine post-accident (post-incident) investigation or who receives a citation for a moving violation arising from the accident will be required to take a post-accident (post-incident) alcohol test.

Post-accident (post-incident) testing shall be carried out within two hours following the accident (incident).

(i) Post-accident (post-incident) testing for ambulatory employees. Following all workplace accidents (incidents) where alcohol testing is to be performed, unless otherwise specified by the department head, affected employees who are ambulatory will be taken by a supervisor or designated personnel of the Town of Bluff City to the designated breath alcohol test site for a breath alcohol test within two hours following the accident. In the event of an accident (incident) occurring after regular work hours, the employee(s) will be taken to the (testing site) within two hours. No employee shall consume alcohol prior to completing the post-accident (post-incident) testing procedures.

No employee shall delay his/her appearance at the designated collection site(s) for post-accident (post-incident) testing. Any unreasonable delay in appearing for alcohol testing shall be considered a refusal to cooperate with the substance abuse program of the Town of Bluff City and shall result in disciplinary action up to and including termination of employment.

(ii) Post-accident (post-incident) testing for injured employees. An affected employee who is seriously injured, non-ambulatory, and/or under professional medical care following a significant accident (incident) shall consent to the obtaining of specimens for alcohol testing by qualified, licensed attending medical personnel and consent to specimen testing. Consent shall

also be given for the attending medical personnel and/or medical facility (including hospitals) to release to the medical review officer (MRO) of the Town of Bluff City appropriate and necessary information or records that would indicate only whether or not specified prohibited alcohol (and what amount) was found in the employee's system. Consent shall be granted by each employee at the implementation date of the substance abuse policy of the Town of Bluff City or upon hiring following the implementation date.

Post-accident (post-incident) breath alcohol testing may be impossible for unconscious, seriously injured, or hospitalized employees. If this is the case, certified or licensed attending medical personnel shall take and have analyzed appropriate specimens to determine if alcohol was present in the employee's system. Only an accepted method for collecting specimens will be used. Any failure to do post-accident (post-incident) testing within two hours must be fully documented by the attending medical personnel.

(b) Testing based on reasonable suspicion. An alcohol test is required for each employee where there is reasonable suspicion to believe the employee is using or is under the influence of alcohol.

The decision to test for reasonable suspicion must be based on a reasonable and articulate belief that the employee is using or has used alcohol. This belief should be based on recent physical, behavioral, or performance indicators of possible alcohol use. One supervisor who has received alcohol detection training that complies with DOT regulations must make the decision to test and must observe the employee's suspicious behavior.

Supervisory personnel of the Town of Bluff City making a determination to subject any employee to alcohol testing based on reasonable suspicion shall document their specific reasons and observations in writing to the city manager within eight (8) hours of the decision to test and before the results of the tests are received by the department.

(c) Random testing. Only employees of the Town of Bluff City possessing or wishing to obtain a commercial driver's license (CDL) who operate a Commercial Motor Vehicle. It is the policy of the Town of Bluff City to annually random test for alcohol at least 25 percent of the total number of drivers possessing or obtaining a commercial driver's license (CDL) who operate a Commercial Motor Vehicle.

A minimum of 15 minutes and a maximum of two hours will be allowed between notification of an employee's selection for random alcohol testing and the actual presentation for testing.

Random test dates will be unannounced with unpredictable frequency. Some employees may be tested more than once each year while others may not be tested at all, depending on the random selection.

If an employee is unavailable (i.e., vacation, sick day, out of town, work-related causes, etc.) to be tested on the date random testing occurs, the Town of Bluff City may omit that employee from that random testing or await the employee's return to work.

(d) Return-to-duty and follow-up. Any employee of the Town of Bluff City who has violated the prohibited alcohol conduct standards must submit to a return-to-duty test. Follow-up tests will be unannounced, and at least six tests will be conducted in the first 12 months after an employee returns to duty. Follow-up testing may be extended for up to 60 months following return to duty.

The employee will be required to pay for his or her return-to-duty and follow-up tests accordingly.

Testing will also be performed on any employee with a CDL returning from leave or special assignment in excess of six months. In this situation, the employee will not be required to pay for the testing.

(2) Alcohol testing procedures. All breath alcohol testing conducted for the Town of Bluff City shall be performed using evidential breath testing (EBT) equipment and personnel approved by the National Highway Traffic Safety Administration (NHTSA).

Alcohol testing is to be performed by a qualified technician as follows:

(a) Step one: An initial breath alcohol test will be performed using a breath alcohol analysis device approved by the National Highway Traffic Safety Administration (NHTSA). If the measured result is less than 0.02 percent breath alcohol level (BAL), the test shall be considered negative. If the result is greater or equal to 0.04 percent BAL, the result shall be recorded and witnessed, and the test shall proceed to Step Two.

(b) Step two: Fifteen minutes shall be allowed to pass following the completion of Step One above. Before the confirmation test or Step Two is administered for each employee, the breath alcohol technician shall insure that the evidential breath testing device registers 0.00 on an air blank. If the reading is greater than 0.00, the breath alcohol technician shall conduct one more air blank. If the reading is greater than 0.00, testing shall not proceed using that instrument. However, testing may proceed on another instrument. Then Step One shall be repeated using a new mouthpiece and either the same or equivalent but different breath analysis device.

The breath alcohol level detected in Step Two shall be recorded and witnessed.

If the lower of the breath alcohol measurements in Step One and Step Two is 0.04 percent or greater, the employee shall be considered to have failed the breath alcohol test. Failure of the breath alcohol test

shall result in administrative action by proper officials of the Town of Bluff City up to and including termination of employment action by proper officials of the Town of Bluff City.

Any breath level found upon analysis to be between 0.02 percent BAL and 0.04 percent BAL shall result in the employee's removal from duty without pay for a minimum of 24 hours. In this situation, the employee must be retested by breath analysis and found to have a BAL of up to 0.02 percent before returning to duty with the Town of Bluff City.

All breath alcohol test results shall be recorded by the technician and shall be witnessed by the tested employee and by a supervisory employee of the Town of Bluff City, when possible.

The completed breath alcohol test form shall be submitted to the city manager. (Ord. #96-007, Nov. 1996)

4-308. Education and training. (1) Supervisory personnel who will determine reasonable suspicion testing. Training supervisory personnel who will determine whether an employee must be tested based on reasonable suspicion will include at the minimum two 60-minute periods of training on the specific, contemporaneous, physical, behavioral, and performance indicators of both probable drug use and alcohol use. One 60-minute period will be for drugs and one will be for alcohol.

The Town of Bluff City will sponsor a drug-free awareness program for all employees.

(2) Distribution of information. The minimal distribution of information for all employees will include the display and distribution of:

(a) Informational material on the effects of drug and alcohol abuse;

(b) An existing community services hotline number;

(c) The Town of Bluff City policy regarding the use of prohibited drugs and/or alcohol; and

(d) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace. (Ord. #96-007, Nov. 1996)

4-309. Consequences of a confirmed positive drug and/or alcohol test result and/or verified positive drug and/or alcohol test result. Job applicants will be denied employment with the Town of Bluff City if their initial positive pre-employment drug and alcohol test results have been confirmed/verified.

If a current employee's positive drug and alcohol test result has been confirmed, the employee is subject to immediate removal from any safety-sensitive function and may be subject to disciplinary action up to and including termination. The town may consider the following factors in determining the appropriate disciplinary response: the employee's work history, length of employment, current work assignment, current job performance, and

existence of past disciplinary actions. However, the town reserves the right to allow employees to participate in an education and/or treatment program approved by the Employee Assistance Program as an alternative to or in addition to disciplinary action. If such a program is offered and accepted by the employee, then the employee must satisfactorily participate in and complete the program as a condition of continued employment.

No disciplinary action may be taken pursuant to this drug policy against employees who voluntarily identify themselves as drug users, obtain counseling and rehabilitation through the town's Employee Assistance Program or other program sanctioned by the town, and thereafter refrain from violating the town's policy on drug and alcohol abuse. However, voluntary identification will not prohibit disciplinary action for the violation of town personnel policy and regulations, nor will it relieve the employee of any requirements for return to duty testing.

Refusing to submit to an alcohol or controlled substances test means that a driver:

(1) Fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with the provisions of this part;

(2) Fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with the provisions of this part; or

(3) Engages in conduct that clearly obstructs the testing process. In either case the physician or breath alcohol technician shall provide a written statement to the town indicating a refusal to test. (Ord. #96-007, Nov. 1996)

4-310. <u>Voluntary disclosure of drug and/or alcohol use</u>. In the event that an employee of the Town of Bluff City is dependent upon or an abuser of drugs and/or alcohol and sincerely wishes to seek professional medical care, that employee should voluntarily discuss his/her problem with the respective department head in private.

Such voluntary desire for help with a substance abuse problem will be honored by the Town of Bluff City. If substance abuse treatment is required, the employee will be removed from active duty pending completion of the treatment.

Affected employees of the Town of Bluff City may be allowed up to 30 consecutive calendar days for initial substance abuse treatment as follows:

(1) The employee must use all vacation, sick, and compensatory time available.

(2) In the event accumulated vacation, sick, and compensatory time is insufficient to provide the medically prescribed and needed treatment up to a maximum of 30 consecutive calendar days, the employee will be provided unpaid leave for the difference between the amount of accumulated leave and the number of days prescribed and needed for treatment up to the maximum 30-day treatment period. (Note - This is an optional provision.)

Voluntary disclosure must occur before an employee is notified of or otherwise becomes subject to a pending drug and/or alcohol test.

Prior to any return-to-duty consideration of an employee following voluntary substance abuse treatment, the employee shall obtain a return-to-duty recommendation from the substance abuse professional (SAP) of the Town of Bluff City. The SAP may suggest conditions of reinstatement of the employee that may include after-care and return-to-duty and/or random drug and alcohol testing requirements. The respective department head and city manager of the Town of Bluff City will consider each case individually and set forth final conditions of reinstatement to active duty. These conditions of reinstatement must be met by the employee. Failure of the employee to complete treatment or follow after-care conditions, or subsequent failure of any drug or alcohol test under this policy will result in administrative action up to and including termination of employment.

These provisions apply to voluntary disclosure of a substance abuse problem by an employee of the Town of Bluff City. Voluntary disclosure provisions do not apply to applicants. Employees found positive during drug and/or alcohol testing under this policy are subject to disciplinary action up to and including termination of employment as specified elsewhere in this policy. (Ord. #96-007, Nov. 1996)

4-311. Exceptions. This policy does not apply to possession, use, or provision of alcohol and/or drugs by employees in the context of authorized work assignments (i.e., undercover police enforcement, intoxilyzer demonstrations). In all such cases, it is the individual employee's responsibility to ensure that job performance is not adversely affected by the possession, use, or provision of alcohol. (Ord. #96-007, Nov. 1996)

4-312. Modification of policy. This statement of policy may be revised by the Town of Bluff City at any time to comply with applicable federal and state regulations that may be implemented, to comply with judicial rulings, or to meet any changes in the work environment or changes in the drug and alcohol testing policy of the Town of Bluff City. (Ord. #96-007, Nov. 1996)

4-313. Definitions. For purposes of the drug and alcohol testing policy, the following definitions are adopted:

(1) "Alcohol." The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl or isopropyl alcohol.

(2) "Alcohol concentration." The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by a breath test.

(3) "Alcohol use." The consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.

(4) "Applicant." Any person who has on file an application for employment or any person who is otherwise being considered for employment or transfer to the police department, fire department, or to a position requiring a commercial driver's license (CDL) being processed for employment. For the purposes of this policy, an applicant may also be: a uniformed employee who has applied for and is offered a promotion or who has been selected for a special assignment; a non-uniformed employee who is offered a position as a uniformed employee; or an employee transferring to or applying for a position requiring a CDL.

(5) "Breath Alcohol Technician (BAT)." An individual who instructs and assists individuals in the alcohol testing process and operates an evidential breath testing device (EBT).

(6) "Chain of custody." The method of tracking each urine specimen to maintain control from initial collection to final disposition for such samples and accountability at each stage of handling, testing, storing, and reporting.

(7) "Collection site." A place where applicants or employees present themselves to provide, under controlled conditions, a urine specimen that will be analyzed for the presence of alcohol and/or drugs. Collection site may also include a place for the administration of a breath analysis test.

(8) "Collection site personnel." A person who instructs donors at the collection site.

(9) "Commercial driver's license (CDL)." A motor vehicle driver's license required to operate a commercial motor vehicle (CMV).

(10) "Commercial Motor Vehicle (CMV)." Any vehicle or combination of vehicles meeting the following criteria: weighing more than 26,000 pounds; designed to transport more than 15 passengers; transporting hazardous materials required by law to be placarded, regardless of weight; and/or classified as a school bus.

(11) "Confirmation test." In drug testing, a second analytical procedure that is independent of the initial test to identify the presence of a specific drug or metabolite that uses a different chemical principle from that of the initial test to ensure reliability and accuracy. In breath alcohol testing, a second test following an initial test with a result of 0.02 or greater that provides quantitative data of alcohol concentration.

(12) "Confirmed positive result." The presence of an illicit substance in the pure form or its metabolites at or above the cutoff level specified by the National Institute of Drug Abuse identified in two consecutive tests that utilize different test methods and that was not determined by the appropriate medical, scientific, professional testing, or forensic authority to have been caused by an alternate medical explanation or technically insufficient data. An EBT result equal to or greater than 0.02 is considered a positive result.

(13) "Consortium." An entity, including a group or association of employers or contractors, which provides alcohol or controlled substances testing

as required by this part or other DOT alcohol or drug testing rules and that acts on behalf of the employers.

(14) "Department director." The director or chief of a city department or his/her designee. The designee may be an individual who acts on behalf of the director to implement and administer these procedures.

(15) "DHHS." The federal Department of Health and Human Services or any designee of the secretary, Department of Health and Human Services.

(16) "DOT agency." An agency of the United States Department of Transportation administering regulations related to alcohol and/or drug testing. For the Town of Bluff City, the Federal Highway Administration (FHWA) is the DOT agency.

(17) "Driver." Any person who operates a commercial motor vehicle.

(18) "EAP." Employee Assistance Program.

(19) "Employee." An individual currently employed by the Town of Bluff City.

(20) "Evidential Breath Testing Device (EBT)." An instrument approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath and placed on NHTSA's "Conforming Products List of Evidential Breath Measurement Devices."

(21) "FHWA." Federal Highway Administration.

(22) "Initial test." In drug testing, an immunoassay test to eliminate negative urine specimens from further analysis. In alcohol testing, an analytic procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath specimen.

(23) "Medical Review Officer (MRO)." A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his/her medical history and any other relevant biomedical information.

(24) "Negative result." The absence of an illicit substance in the pure form or its metabolites in sufficient quantities to be identified by either an initial test or confirmation test.

(25) "NHTSA." National Highway and Traffic Safety Administration.

(26) "Refuse to submit." Refusing to submit to an alcohol or controlled substances test means that a driver:

(a) Fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with the provisions of this part;

(b) Fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with the provisions of this part; or

(c) Engages in conduct that clearly obstructs the testing process.

(27) "Safety-sensitive drivers." Employees in the aviation, motor carrier, railroad, and mass transit industries.

(28) "Split specimen." Urine drug test sample will be divided into two parts. One part will be tested initially, the other will remain sealed in case a retest is required or requested.

(29) "Substance abuse professional." A licensed physician (medical doctor or doctor of osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders. (Ord. #96-007, Nov. 1996)

4-314. Effective date. This employee drug and alcohol testing policy has been approved and adopted by the Town of Bluff City effective Jan. 1, 1996. (Ord. #96-007, Nov. 1996)

CHAPTER 4

TRAVEL POLICY

SECTION

4-401. Policy. The Town of Bluff City, a municipal corporation of the State of Tennessee, establishes the following as its policy for travel by city employees engaged in city business. (Ord. #98-12, § I, Nov. 1998)

4-402. Travel requests. To ensure reimbursement for official travel, an approved travel authorization form is required. Lack of pre-approval does not prohibit reimbursement, but it does assure reimbursement within the limits of the city travel policy. All costs associated with the travel should be reasonably estimated and shown on the travel request form. An approved request form is needed before advanced expenses are paid or travel advances are authorized. A copy of the conference program, if applicable, should be attached to the form. If the program is not available prior to the travel, submit it with the reimbursement form. (Ord. #98-12, § I, Nov. 1998)

4-403. Travel documentation. It is the responsibility of the authorized traveler to:

(1) Prepare the reimbursement request and to accurately describe the travel,

(2) Certify the accuracy of the reimbursement request,

(3) Note on the reimbursement form all direct payments and travel advances made by the Town of Bluff City,

(4) File the reimbursement form with the necessary supporting documents and original receipts.

(5) Receipts are required for all claimed expenses in excess of $5.00.

The reimbursement form must be filed with the city recorder within ten (10) working days of return. No additional travel requests will be approved or advances issued until prior travel reimbursement requests have been submitted. (Ord. #98-12, § I, Nov. 1998)

4-404. Transportation. All potential costs should be considered when selecting the mode of transportation. For example, airline travel may be cheaper than automobile when time away from work and increased meal and lodging costs are considered. When time is important, or when the trip is so long that other modes of transportation are not cost-beneficial, air travel is encouraged.

If the traveler goes outside the state by means other than air, the reimbursement will be limited to air fare at tourist or economy class, ordinary expenses during the meeting dates, and one day's meals and motel before and after the meeting. The traveler will be required to take annual leave for any additional time taken beyond the day before and the day after the meeting dates.

Exceptions: When the traveler extends the trip with personal time to take advantage of discount fares, the reimbursement will be limited to the lesser of:

--The actual expenses incurred or

--The amount that would have been incurred for the business portion only.

The calculations for the business portions of the trip must be made using the least expensive rates available.

All expenses and savings associated with extending the trip must be submitted with the expense reimbursement form.

(1) Air. When possible, the traveler should make full use of discounts for advance airline reservations and advance registration. The Town of Bluff City will pay for tourist or economy class air travel. The travelers should get the cheapest reasonable fare and take advantage of "super saver" or other discount fares. Airline travel can be paid by direct billing to the Town of Bluff City. Mileage credits for frequent flyer programs accrue to the individual traveler. However, the Town of Bluff City will not reimburse for additional expenses--such as circuitous routing, extended stays, layovers to schedule a particular carrier, upgrading from economy to first class for travelers to accumulate additional mileage or for other personal reasons. The Town of Bluff City will not reimburse travel by private aircraft unless authorized in advance by the city manager.

(2) Rail or bus. The city will pay for actual costs of ticket.

(3) Vehicles. Automobile transportation may be used when a common carrier can not be scheduled, when it is more economical, when a common carrier is not practical, or when expenses can be reduced by two or more Town of Bluff City employees traveling together.

(a) (i) Personal vehicle. Employees should use Town of Bluff City vehicles when possible. Use of a private vehicle must be approved in advance by the city manager. The Town of Bluff City will reimburse mileage at the same rate as the State of Tennessee pursuant to Tennessee Code Annotated, § 4-3-1008(3). The miles for reimbursement shall be paid from origin to destination and

back by the most direct route. Necessary vicinity travel related to official Town of Bluff City business will be reimbursed. If an indirect route is taken the Rand-McNally mileage table will be used to determine the mileage to be reimbursed. If a privately owned automobile is used by two or more travelers on the same trip, only the traveler who owns or has custody of the automobile will be reimbursed for mileage. It is the responsibility of the traveler to provide adequate insurance for any liability from the use of the private vehicle. In no event will mileage reimbursement, plus vicinity travel and associated automobile costs, exceed the lowest reasonable available airfare and associated airfare travel costs. Travelers will not be reimbursed for automotive repair or breakdowns when using their personal vehicle.

(ii) Local use of personal vehicle. Various employees may find it necessary to use their personal vehicles in the performance of their duties. The Town of Bluff City will reimburse the employee at the same rate as the State of Tennessee pursuant to Tennessee Code Annotated, § 4-3-1008(3). Documentation of such use must include the date, the beginning mileage, the ending mileage and the purpose of the trip. Reimbursement requests must be submitted to the city recorder no later than the 15th day of the month following the travel. It is the responsibility of the traveler to provide adequate insurance for any liability resulting from the use of the private vehicle. In the event that an employee is involved in an accident that is determined not to be the employee's fault, the Town of Bluff City may elect to reimburse the employee for any deductible paid by the employee.

(b) City vehicle. The Town of Bluff City may require the employee to drive a town vehicle. If a Town of Bluff City is provided, the traveler is responsible for seeing that the vehicle is used properly and only for acceptable business. The employee will be reimbursed for expenses directly related to the actual and normal use of the Town of Bluff City vehicle when proper documentation is provided. Out-of-town repair cost to the town's vehicle in excess of $250.00 must be cleared by the city manager or city recorder before the repair is authorized. Whenever possible, repairs should be performed at an authorized dealership for the make of the vehicle being repaired. Copies of receipts for all fuel purchased. City credit card fuel purchases and repairs must be forwarded to the city recorder upon return.

(c) Rental cars. Use of a rental car is not permitted unless it's less expensive or otherwise more practical than public transportation. Approval of car rental is required in advance by the city manager. Always request the government or weekend rate, whichever is cheaper.

Fine for traffic or parking violations will not be reimbursed by the city. Reasonable tolls will be allowed when the most direct travel route requires them. Parking fees and costs will be reimbursed. Receipts are required for items over $5.00.

(4) Taxi, limousine, and other transportation fares. When an individual travels by common carrier, reasonable fares will be allowed for necessary ground transportation. Bus or limousine service to and from airports should be used when available and practical. The Town of Bluff City will reimburse mileage for travel to and from the local airport and parking fees, provided such costs do not exceed normal taxi/limousine fares to and from the airport. Receipts are required for parking fees of $5.00 or more. For travel between lodging quarters and meetings, conferences, or meals, reasonable taxi fares will be allowed. Remember, original receipts are required for claims of $5.00 or more. Transportation to and from shopping, entertainment, or other personal trips is the choice of the traveler and are not reimbursable. Reimbursement claims for taxis, limousines, or other ground transportation must be listed separately on the expense form, claiming the destination and amount of each fare. (Ord. #98-12, § I, Nov. 1998, as amended by Ord. #2001-004, July 2001)

4-405. Lodging. The Town of Bluff City will reimburse the employee for the actual costs incurred. The employee is expected to obtain the best rate available under the circumstances. Government rates should be requested and tax exemption certificates used whenever possible.

(1) Original lodging receipts must be submitted with the reimbursement form. Photocopies are not acceptable.

(2) Even if it costs more, travelers may stay at the officially designated hotel of the meeting; however, more moderately priced accommodations must be requested whenever possible. It will be the traveler's responsibility to provide documentation of the "officially designated meeting site" room rates, if these rates are higher than the normal reimbursable amounts.

(3) If two or more city employees travel together and share a room, the lodging reimbursement will be for the actual cost incurred up to a maximum of the costs of two single rooms. One employee should report the total costs of the lodging and indicate that the room was shared and with whom. If an employee shares a room with a non-employee, the actual costs will be allowed up to the single room rate. The receipt for the entire amount must be submitted with the expense form. (Ord. #98-12, § I, Nov. 1998)

4-406. Meals and incidentals. Receipts are not required for meals and incidentals. The authorized traveler will be reimbursed the daily amount based on the rate schedule below and the authorized length of stay. The per diem meal amounts are expected to cover meals, tips, porters, and incidental expenses. The authorized traveler will not be reimbursed more than this.

Whether meals may be claims depends on when the traveler leaves and returns to the official station. The traveler's official station is home or work, whichever produces the least costs to the Town of Bluff City. When partial day travel is involved, the current per diem allowance is determined as follows:

Meal	Amount	If departure before	If return after
Breakfast	$8.00	7:00 A.M.	8:00 A.M.
Lunch	$10.00	11:00 A.M.	1:30 P.M.
Dinner*	$18.00	5:00 P.M.	6:30 P.M.
Incidentals	$5.00		

*When overnight travel is involved, dinner reimbursement is made regardless of departure time.

**The city manager will address special circumstances relating to per diem allowances on a case by case basis.

The amounts include tip, gratuity, etc. The hour and date of departure and return must be shown on the expense reimbursement form.

The excess costs of an official banquet may be allowed provided proper documentation or explanation is submitted with the expense reimbursement form. If a meal is included as part of a conference or seminar registration, or is included with the air fare, then the allowance for that meal should be subtracted from the total allowance for the day. For example, if a dinner is included as part of the conference fee, the maximum meal allowance for the day should be reduced by the allowed dinner amount. (Ord. #98-12, § I, Nov. 1998)

4-407. Miscellaneous expenses. (1) Registration fees for approved conferences, conventions, seminars, meetings, and other educational programs will be allowed and will generally include the costs of official banquets, meals, lodging, and registration fees. Registration fees should be specified on the original travel request form and can include a request for pre-registration fee payment.

(2) Business related long distance phone calls will be reimbursed. In addition, one personal long distance call, not to exceed $5.00 will be reimbursed per day. Employees should use the most economical telephone service available.

(3) A $4.00 allowance will be reimbursable for hotel/motel check-in and baggage handling expense.

(4) Laundry, valet service, tips and gratuities are considered personal expenses and are not reimbursable.

(5) For travel outside the United States, all expenses claimed must be converted to U.S. dollars. The conversion rate and computation should be shown on each receipt. (Ord. #98-12, § I, Nov. 1998)

4-408. Travel reconciliation. (1) Within 10 days of return from travel the traveler is expected to complete and file the expense reimbursement form. It must be certified by the traveler that the amount due is true and accurate. Original lodging, travel, taxi, parking, and other receipts must be attached.

If the Town of Bluff City provided a travel advance or made advanced payment, the traveler should include that information on the expense form. In the case of advances, the form should have a reconciliation summary, reflecting total claimed expenses with advances and town pre-payments indicated. The balance due the traveler or the refund due the town should be clearly shown.

(2) If the traveler received advance and spent less than the advance, the traveler should attach a check made payable to the town for that difference. If the refund by the traveler is to be made in cash, the cash must be hand delivered to the city recorder. The receipt must be attached to the expense reimbursement form. Do not send cash through the inter-office mail.

(3) The city manager will address special circumstances and issues not covered in this chapter on a case-by-case basis.

(4) Where several employees travel together as a group, one reimbursement request may be submitted by the employee in charge. Such reimbursement request must indicate the names of the employees included. (Ord. #98-12, § I, Nov. 1998)

4-409. Disciplinary action. Violation of the travel rules can result in disciplinary action for employees. Travel fraud can result in criminal prosecution of officials and/or employees. (Ord. #98-12, § I, Nov. 1998)

4-410. Take home vehicles. The town manager is hereby authorized to issue take home vehicles in exigent circumstances. The take home vehicle shall be used under the following policy:

(1) After the workday the vehicle is to be driven from work to home, back to work the next day and on call outs only.

(2) The vehicle is to be used for no personal errands whatsoever.

(3) There shall be no hauling of personal items other than those items needed for the work day and/or call outs.

(4) No passengers shall be allowed in the vehicle except for governmental passengers and/or passengers in the performance of the employee's duty.

(5) When the employee is on vacation the take home vehicle shall stay on town property rather than the employee's home. (as added by Ord. #2005-011, Sept.2005, and amended by Ord. #2011-013, Aug. 2011)

CHAPTER 5

E-MAIL POLICY

SECTION

4-501. Purpose and scope. The city provides electronic mail (e-mail) to employees for their use in performing their duties for the city. These materials explain the city's rules and expectations for the proper use of electronic mail. This document also sets forth circumstances under which e-mail messages may be disclosed to persons outside the city administration. For example, access to e-mail may be granted to external users, such as other cities' employees, special task-force members, or pursuant to a lawful subpoena.

All electronic mail is a local government record and may be considered a "public record" for the purposes of the Tennessee Public Records Act. Under the Public Records Act, certain e-mail communications may be open to public access and inspection. In addition, such communications may be subject to discovery under the Tennessee or Federal Rules of Civil Procedure. (Ord. #2000-010, July 2000)

4-502. Background. Benefits of e-mail. The city finds that e-mail provides many benefits to the city and its employees. E-mail often improves communication between different departments, eliminates unnecessary paperwork, allows communication with many other governmental offices almost instantaneously, and generally facilitates the smooth operation of city services. (Ord. #2000-010, July 2000)

4-503. Ownership. All electronic systems, computers, and other hardware, software, temporary or permanent files, and any related systems or devices used in the transmission, receipt, or storage of e-mail are the property of the Town of Bluff City. E-mail messages are considered to be city property. Also, they may be retrieved from storage even after they have been deleted by the sender and the recipient. (Ord. #2000-010, July 2000)

4-504. Responsibilities. Records manager. The city will designate a records manager or other individual who will be designated as a coordinator for public records generated by e-mail. It is the responsibility of this individual to accommodate members of the public who request access to e-mail. The records manager will also keep a log on the use of public access to the system and develop an efficient procedure to be used for public access to e-mail communications. The records manager may also provide and/or coordinate user training. The city recorder is currently designated as custodian of the public records.

Individuals requesting access to e-mail. Depending on the circumstances and resources, searches requested pursuant to the Public Records Act will be made either by the requester or a city representative. Any requester claiming a qualified disability will be accommodated by the city in accordance with the Americans With Disabilities Act. (Ord. #2000-010, July 2000)

4-505. Statement of policy and overview of usage. Policy. It is city policy that the e-mail system, like other city assets, is used only for the benefit of the city. Use of e-mail that violates city policies or state and/or federal law is prohibited and may lead to disciplinary action up to and including termination. All employees who use e-mail will certify that they have read and fully understand the contents of this policy by signing the attached acknowledgment.[1] Any and all statements and opinions made by individuals using e-mail, whether implied or expressed, are those of the individual and not necessarily the opinions of the city or its management.

Privacy. Employees should be aware that e-mail messages may be read by others for a variety of valid reasons. Although this statement applies to many other types of city correspondence, the informal nature of e-mail may lead one to forget or ignore the fact that e-mail is considered to be the private property of the sender or the recipient, even if passwords or encryption codes are used for security reasons.

Personal use. Should employees make incidental use of e-mail to transmit personal messages, those messages will be treated no differently than other messages and may be accessed, reviewed, copied, deleted, or disclosed. You should not expect that a message will never be disclosed to or read by others beyond its original intended recipient(s).

Authorized uses. Supervisors or department heads may authorize the use of e-mail to send and receive messages and to subscribe to list-servers from recognized professional organizations and entities relating to the official duties of the city. All employees are authorized to use e-mail as they would any other official city communication tool. Communication by e-mail is encouraged when it results in the most efficient or effective means of communication.

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[1]This acknowledgment form is of record in the office of the recorder.

Uses subject to approval. The following uses require the written approval of the employee's supervisor or department head:

- Using hardware, related computer equipment, and software not owned or purchased by the city for e-mail related city business.
- Reading electronic mail of another employee without prior written approval. However, an employee's supervisor may inspect the contents of e-mail pursuant to the section entitled "ownership" in this policy.
- Encrypting any e-mail message unless specifically authorized to do so and without depositing the encryption key with the computer administrator or your immediate supervisor prior to encrypting any messages. If an employee is allowed to encrypt e-mail, this does not mean that e-mail is intended for personal communication nor does it suggest that encrypted e-mail messages are the private property of the employee.

Prohibited uses. The following actions are prohibited:

- Intercepting, eavesdropping, recording, or altering another person's e-mail message;
- Forwarding a message sent to you without the sender's permission, including chain letters;
- Adopting the identity of another person on any e-mail message, attempting to send electronic mail anonymously, or using another person's password;
- Misrepresenting yourself or your affiliation with the city in any e-mail message;
- Composing e-mail that contains racial, religious, or sexual slurs or jokes, or harassing, intimidating, abusive, or offensive material to or about others;
- Using e-mail for any personal commercial or promotional purpose, including personal messages offering to buy or sell goods or services;
- Using e-mail to conduct employee organization, association, or union business; and
- Sending or receiving any software in violation copyright law. (Ord. #2000-010, July 2000)

4-506. Confidential information. Employees must exercise a greater degree of caution in transmitting confidential information via e-mail than with other forms of communications. Why? Because it paves the way for another person to redistribute such information almost effortlessly. Confidential information should never be transmitted or forwarded to other employees inside or outside the city who do not have a "need to know." To reduce the chance that

confidential information inadvertently may be sent to the wrong person, avoid misuse of distribution lists and make sure that any lists used are current.

If you are unsure whether certain information is confidential, consult your supervisor, your city attorney, or an MTAS legal consultant. Examples of information that either are or may be considered confidential include but are not limited to:

- Certain personal information from a person's personnel file, including medical records about employees and personal, identifying information of undercover detectives, such as home addresses, telephone numbers, identities of family members, and social security numbers;
- Information relating to an administrative hearing and litigation of a civil or criminal nature;
- Information that, if released, would give a competitive advantage to one prospective bidder over another for city contracts;
- Private correspondence of elected officials;
- Trade secrets or commercial or financial information of outside businesses;
- Information related to the regulation of financial institutions or securities;
- Information regarding an ongoing criminal investigation; and
- Taxpayer information.

E-mail messages that contain confidential information should have a confidentiality declaration printed at the top of the message in a form similar to the following:

"THIS MESSAGE CONTAINS CONFIDENTIAL INFORMATION OF THE TOWN OF BLUFF CITY. UNAUTHORIZED USE OR DISCLOSURE IS PROHIBITED."

Since copies of e-mail may be backed up or sent to other systems, they can easily be retrieved later by information system personnel who should not know the content of the message. Therefore, employees should keep in mind that e-mail may not be the best form of communication with respect to certain types of confidential information.

Messages to legal counsel. All messages to and from legal counsel seeking or giving legal advice should be marked with the following legend in all capital letters at the top of the page:

"CONFIDENTIAL ATTORNEY/CLIENT PRIVILEGED INFORMATION."

In addition, to preserve the attorney/client privilege, messages to and from legal counsel should never be sent to distribution lists or forwarded to anyone else. It is best if such messages are not retained on a network e-mail system. If a copy of an attorney/client privileged communication needs to be

retained, it should be printed and filed in an appropriate place. (Ord. #2000-010, July 2000)

4-507. Copyright infringement. The ability to attach a document to an e-mail message for distribution may increase the risk of copyright infringement as prohibited by federal law. A user can be liable for the unauthorized copying and distribution of copyrighted material through e-mail systems. Accordingly, you should not copy and distribute by e-mail any copyrighted material of a third party, such as software, database files, documentation, articles, graphics files, and downloaded information, unless you confirm in advance from appropriate sources that the city has the right to copy or distribute such material. Any questions concerning these rights should be directed to appropriate legal counsel. (Ord. #2000-010, July 2000)

4-508. Retention of e-mail. Deletion of messages. The city strongly discourages the local storage of large number of e-mail messages. Retention of messages takes up large amounts of storage space on the network server. In addition, because e-mail messages can contain confidential information, it is desirable to limit the number, distribution, and availability of such messages. Of course, if the message contains information that must be preserved as a permanent record, it must be saved and archived. (Ord. #2000-010, July 2000)

4-509. Policy violations. Violations of this policy will be reviewed on a case-by-case basis and can result in disciplinary action up to and including termination. All e-mail messages are subject to all state and federal laws that may apply to the use of e-mail. In addition, violations of this policy or misuse of the e-mail system could result in civil or criminal prosecution. (Ord. #2000-010, July 2000)

CHAPTER 6

OCCUPATIONAL SAFETY AND HEALTH PROGRAM

SECTION

4-601. Title. This section shall be known as the Occupational Safety and Health Program Plan for the employees of Town of Bluff City, Tennessee.[1] (as added by Ord. #2004-013, Nov. 2004, and replaced by Ord. #2013-002, May 2013)

4-602. Purpose. The Town of Bluff City in electing to update the established program plan will maintain an effective and comprehensive occupational safety and health program plan for its employees and shall:

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

(a) Top management commitment and employee involvement;

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

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

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

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

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

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[1]The plan of operation for the occupational safety and health program plan for the employees of the Town of Bluff City, Tennessee is available for review in the office of the recorder.

(4) Consult with the Commissioner of Labor and Workforce Development with regard to the adequacy of the form and content of records.

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

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

(7) Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards, and provide for education and notification of all employees of the existence of this program plan. (as added by Ord. #2004-013, Nov. 2004, and replaced by Ord. #2013-002, May 2013)

4-603. Coverage. The provisions of the Occupational Safety and Health Program Plan for the Town of Bluff City shall apply to all employees of each administrative department, commission, board, division, or other agency whether part-time or full-time, seasonal or permanent. (as added by Ord. #2004-013, Nov. 2004, and replaced by Ord. #2013-002, May 2013)

4-604. Standards authorized. The occupational safety and health standards adopted by the Town of Bluff City 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] (as added by Ord. #2004-013, Nov. 2004, and replaced by Ord. #2013-002, May 2013)

4-605. Variances from standards authorized. Upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, we may request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, Variances from Occupational Safety and Health Standards, chapter 0800-01-02, as authorized by Tennessee Code Annotated, title 50. Prior to requesting such temporary variance, we will notify or serve notice to our 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 shall be deemed sufficient notice to employees.

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[1]State law reference

Tennessee Code Annotated, title 50, chapter 3.

(as added by Ord. #2004-013, Nov. 2004, and replaced by Ord. #2013-002, May 2013)

4-606. Administration. For the purposes of this chapter, city manager is designated as the safety director of occupational safety and health to perform duties and to exercise powers assigned to plan, develop, and administer this program plan. The safety director shall develop a plan of operation for the program plan in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, Safety and Health Provisions for the Public Sector, Chapter 0800-01-05, as authorized by Tennessee Code Annotated, title 50. (as added by Ord. #2004-013, Nov. 2004, and replaced by Ord. #2013-002, May 2013)

4-607. Funding the program. Sufficient funds for administering and staffing the program plan pursuant to this chapter shall be made available as authorized by the Town of Bluff City. (as added by Ord. #2004-013, Nov. 2004, and replaced by Ord. #2013-002, May 2013)

CHAPTER 7

TOBACCO USE POLICY

SECTION

4-701. Tobacco use policy. The use of any kind of tobacco products will be prohibited in all areas of town buildings including private offices, meeting rooms, hallways, and all town vehicles. Employees will only be allowed to use tobacco products in designated areas outside of the buildings. The town manager shall designate those areas. (as added by Ord. #2005-010, Aug. 2005)

CHAPTER 8

CODE OF ETHICS POLICY

SECTION

4-801. Applicability. This chapter is the code of ethics for personnel of the municipality. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the municipality. The words "municipal" and "municipality" include these separate entities. (as added by Ord. #2006-020, Nov. 2006)

4-802. Definition of "personal interest." (1) For purposes of §§ 4-803 and 4-804 "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 interest; 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. patent(s), step parent(s), grandparent(s), sibling(s), child(ren), or step child(ren).

• 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.

• In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter. (as added by Ord. #2006-020, Nov. 2006)

4-803. Disclosure of personal interest by official with vote. An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself from voting on the measure. (as added by Ord. #2006-020, Nov. 2006)

4-804. Disclosure of personal interest in non-voting matters. An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself from the exercise of discretion in the matter. (as added by Ord. #2006-020, Nov. 2006)

4-805. Acceptance of gratuities, etc. An official or employee may not accept, directly or indirectly, any money, gift, gratuity or other consideration or favor of any kind from anyone other than the municipality:

- For the performance of an act, or refraining from performance of an act, that he would be expected to perform, or refrain from performing, in the regular course of his duties; or
- That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business. (as added by Ord. #2006-020, Nov. 2006)

4-806. Use of information. • An official or employee may not disclose any information obtained in his official capacity or position of employment that is made confidential under state or federal law except as authorized by law.

- An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity. (as added by Ord. #2006-020, Nov. 2006)

4-807. Use of municipal time, facilities, etc. • 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.

- An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease that is determined by the governing body to be in the best interest of the municipality. (as added by Ord. #2006-020, Nov. 2006)

4-808. Use of position or authority. • An official or employee may not make or attempt to make private purchases, for cash or otherwise, in the name of the municipality.

• An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the municipality. (as added by Ord. #2006-020, Nov. 2006)

4-809. Outside employment. An official or employee may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the municipal position or conflicts with any provision of the municipality's charter or any ordinance or policy. (as added by Ord. #2006-020, Nov. 2006)

4-810. Ethics complaints. • The city attorney is designated as the ethics officer of the municipality. Upon the written request of an official or employee potentially affected by a provision of this chapter, the city attorney may render an oral or written advisory ethics opinion based upon this chapter and other applicable law.

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

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

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

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

• When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation or a civil service policy, rules, or regulations, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this code of ethics. (as added by Ord. #2006-020, Nov. 2006)

4-811. Violations. An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the municipality's charter or other applicable law, and in addition is subject to censure by the governing body. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (as added by Ord. #2006-020, Nov. 2006)

TITLE 5

MUNICIPAL FINANCE AND TAXATION[1]

CHAPTER

CHAPTER 1

MISCELLANEOUS

SECTION

5-101. Official depository for town funds. The First National Bank of Sullivan County is hereby designated as the official depository for all municipal funds. (1980 Code, § 6-101)

[1]Charter reference: art. XI.

CHAPTER 2

PRIVILEGE TAXES

SECTION

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

The recorder shall be entitled to demand and receive the fee of $5.00 for collecting and recording amounts from the business tax.

The proceeds of the privilege taxes herein levied and the fee herein chargeable shall accrue to the general fund.

The payment of business taxes shall be in accordance with the following schedule:

(1) Classification 1 on each December 31.
(2) Classification 2 on each March 31.
(3) Classification 3 on each June 30.
(4) Classification 4 on each September 30.
(5) Classification 5 on each December 31. (1980 code, § 6-201, as amended by Ord. #87-001, Aug. 1987, and Ord. #90-010, Jan. 1991)

5-202. License required. No person shall exercise any such privilege within the town without a currently effective privilege license, which shall be issued by the recorder to each applicant therefor upon payment of the appropriate privilege tax. (1980 Code, § 6-202)

TITLE 6

LAW ENFORCEMENT

CHAPTER

CHAPTER 1

POLICE AND ARREST[1]

SECTION

6-101. Policemen subject to chief's orders. All policemen shall obey and comply with such orders and administrative rules and regulations as the police chief may officially issue. (1980 Code, § 1-301)

6-102. Policemen to preserve law and order, etc. Policemen shall preserve law and order within the town. They shall patrol the town and shall assist the city court during the trail of cases. Policemen shall also promptly serve any legal process issued by the city court. (1980 Code, § 1-302)

6-103. Policemen to wear uniforms and be armed. All policemen shall wear such uniform and badge as the board of mayor and aldermen shall authorize and shall carry a service pistol and billy club at all times while on duty unless otherwise expressly directed by the chief for a special assignment. (1980 Code, § 1-303)

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[1]Municipal code reference
Traffic citations, etc.: title 15, chapter 7.

6-104. When policemen to make arrests[1]. Unless otherwise authorized or directed in this code or other applicable law, an arrest of the person shall be made by a policeman in the following cases:

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

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

(3) Whenever a felony has in fact been committed and the officer has reasonable cause to believe the person has committed it. (1980 Code, § 1-304)

6-105. Policemen may require assistance in making arrests. It shall be unlawful for any person willfully to refuse to aid a policeman in maintaining law and order or in making a lawful arrest when such a person's assistance is requested by the policeman and is reasonably necessary. (1980 Code, § 1-305)

6-106. Disposition of persons arrested. Unless otherwise authorized by law, when a person is arrested he shall be brought before the city court for immediate trial or allowed to post bond. When the city judge is not immediately available and the alleged offender is not able to post the required bond, he shall be confined. (1980 Code, § 1-306)

6-107. Police department records. The police department shall keep a comprehensive and detailed daily record in permanent form, showing:

(1) All known or reported offenses and/or crimes committed within the corporate limits.

(2) All arrests made by policemen.

(3) All police investigations made, funerals convoyed, fire calls answered, and other miscellaneous activities of the police department. (1980 Code, § 1-307)

6-108. Overtime and compensation time for the police department. (1) All police department overtime will be accrued on a twenty-eight (28) day tour of duty. The police officer shall be eligible for overtime or compensation time off in lieu thereof.

(2) A "28-Day" pay sheet will be filled out for each cycle (tour of duty) identifying the number of hours worked in excess of one hundred seventy-one (171). These pay sheets will be turned in at the end of each twenty-eight (28) day cycle and shall be reviewed and approved by the mayor. The pay sheet will have a statement at the bottom that give the officer the choice of requesting the time in overtime hours or in compensatory time. Only actual hours worked will count toward the one hundred seventy-one (171) hour cycle. For example: If "A" works forty (40) hours on week one, forty-eight (48) hours on week two, forty-four (44) hours on week three, and thirty-two (32) hours on week four (using

eight (8) hours of holiday, compensatory, or sick time to make the forty (40) hour week). The total actual worked hours would be one hundred and sixty-four (164), not one hundred and seventy-two (172).

(3) Compensation delineated. (a) Overtime will be paid at a rate of 1.5 times the hourly wage of the officer per each hour worked in excess of one hundred seventy-one(171) hours. If not set in the budget, the hourly wage shall be determined by dividing the salary for the twenty-eight (28) day cycle by one hundred seventy-one (171) hours.

(b) Compensatory time will be calculated at the rate of 1.5 hours per each hour worked in excess of one hundred seventy-one (171) hours and shall be recorded at the calculated rate.

(4) Holiday hours. (a) Due to the sporadic nature of police work and the subsequent scheduling thereof, holiday time off will be accrued as an hourly figure which is accumulated on actual day of the holiday (usually eight (8) hours per holiday).

(b) An exception to this rule would be for holidays worked by the officer when the officer works in excess of the eight (8) hours afforded such holiday. In this case the office would accrued actual hours worked in excess of eight (8) hours. The hours would be added to the holiday time of eight (8) hours without any further calculations. It will not be calculated as compensatory time, only straight time.

(5) Time used. (a) When leave time is used by the officer, it will be recorded on the date taken and must be identified as "H" - Holiday; "C" - Compensatory; or "S" - Sick time.

(b) At no time will an officer be allowed to take time off that has not yet been accrued.

(6) At no time shall any officer carry any amount of compensatory time in excess of forty-two (42) hours. After an officer accrues forty-two (42) hours of compensatory time, actual overtime pay must be given at the end of each twenty-eight (28) day cycle, until such time that the officer's compensatory time drops below the forty-two (42) hour cap. (Ord. #94-001, Feb. 1994, as replaced by Ord. #2004-007, Aug. 2004)

6-109. Confiscated money to be locked up. All confiscated monies from the police department drug or other related citations will be locked up according to approved control procedures and reported to the city manager/city recorder where it will be logged in for verification from the State of Tennessee pending approval or denial for processing into the general ledger of the city. (as added by Ord. #2011-025, Jan. 2012)

CHAPTER 2

WORKHOUSE

SECTION

6-201. Town jail designated municipal workhouse. The town jail is hereby designated as the municipal workhouse. (1980 Code, § 1-501)

6-202. 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. (1980 Code, § 1-502)

6-203. Compensation of inmates. Each workhouse inmate shall be allowed five dollars ($5.00) per day as credit toward payment of the fines assessed against him.[1] (1980 Code, § 1-503)

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[1]State law reference
Tennessee Code Annotated, § 40-24-104.

TITLE 7

FIRE PROTECTION AND FIREWORKS[1]

[RESERVED FOR FUTURE USE]

[1]Ord. #2000-015, Dec. 2000, deleted title 7, chapter 1, "Volunteer Fire Department" and reserved the title for future use.

TITLE 8

ALCOHOLIC BEVERAGES[1]

CHAPTER
1. INTOXICATING LIQUORS.
2. BEER.

CHAPTER 1

INTOXICATING LIQUORS

SECTION
8-101. Prohibited generally.

8-101. Prohibited generally. Except as authorized by applicable laws[2] and/or ordinances, it shall be unlawful for any person to manufacture, receive, possess, store, transport, sell, furnish, or solicit orders for any intoxicating liquor within the Town of Bluff City for the purpose of sale or resale. "Intoxicating liquor" shall be defined to include whiskey, wine, "home brew," "moonshine," and all other intoxicating, spirituous, vinous, or malt liquors and beers which contain more than five percent (5%) of alcohol by weight. (1980 Code, § 2-101, as amended by Ord. #2000-001, March 2000)

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[1]State law reference
Tennessee Code Annotated, title 57.

[2]State law reference
Tennessee Code Annotated, title 39, chapter 17.

CHAPTER 2

BEER[1]

SECTION

8-201. Business prohibited. It shall be unlawful for any person to sell, store for sale, distribute for sale, or to manufacture beer within the corporate limits of the city except as authorized under the conditions hereinafter prescribed in chapter 2. (Ord. #91-041, Nov. 1991)

8-202. Beer board established. There is hereby established a beer board to be composed of all the members of the board of mayor and aldermen.

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[1]State law reference

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

The mayor shall be the board's chairman and shall preside at its meetings. Board members shall serve without compensation. (Ord. #91-041, Nov. 1991)

8-203. Meetings of the beer board. All meetings of the beer board shall be open to the public. The board shall hold its regular meetings following each regular meeting of the board of mayor and alderman at the municipal building whenever there is business to come before the beer board. Such business shall be scheduled for the regular meetings whenever possible. A special meeting of the beer board may be called by the chairman upon his giving reasonable notice thereof to each beer board member. The board may adjourn a meeting at any to another time and/or place. (Ord. #91-041, Nov. 1991)

8-204. Record of beer board proceedings to be kept. The city recorder shall make a separate record of the proceedings at all beer board meetings. The record shall be a public record and shall contain at least the following: the date of each meeting; the names of the board members present and absent; the names of the members introducing and seconding motions and resolutions before the board; a copy of each such motion or resolution presented; the vote of each board member thereon; and the provisions of each beer permit issued by the board. (Ord. #91-041, Nov. 1991)

8-205. Requirements for beer board quorum and action. The attendance of at least a majority of the members of the beer board shall be required to constitute a quorum for the purpose of transacting business. Matters before the beer board shall be decided by a majority of the members present if a quorum is constituted. The chairman shall have a vote in all matters before the beer board. Before any motion or resolution can be adopted it, must receive the approving vote of the majority of members present. (Ord. #91-041, Nov. 1991, as amended by Ord. #2000-04, March 2000)

8-206. Powers and duties of the beer board. The beer board shall have the power and it is hereby directed to regulate the selling, storing for sale, distribution for sale, and manufacturing of beer within the town in accordance with the provisions of this chapter. (Ord. #91-041, Nov. 1991)

8-207. "Beer" defined. The term "beer," as used in this chapter, shall mean and include all beer, ales, and other malt liquors having an alcoholic content of not more than five percent (5%) by weight. (Ord. #91-041, Nov. 1991)

8-208. Sales, storage, manufacture, and distribution as privilege. The sale, storage, manufacture and distribution of beer in the town is a privilege, and the beverage board shall have complete discretion to issue, revoke, and suspend any permits or licenses to sell, store, manufacture, or distribute beer in the town. (Ord. #91-041, Nov. 1991)

8-209. Permit required. It shall be unlawful for any person or corporation to have beer for the purpose of sale, to possess, receive, or transport beer for the purpose of sale, to keep beer in stock, or to store or possess beer in any warehouse, place, business, residence, or other location, when same is intended for the purpose of present or future sale, either wholesale or retail and whether intended to be sold for redelivery at the place of sale or to be shipped or otherwise transported for delivery at another place, without a permit having been issued by the beer board. It shall also be unlawful for any person or corporation to conduct promotional or gratuitous distribution of beer or intoxicating beverages to the public at his place of business during the course and scope of the business without first having obtained a permit from the beer board. (Ord. #91-041, Nov. 1991)

8-210. Beer permits shall be restrictive. A beer permit issued under the terms of this chapter shall be restrictive as to the type of beer business authorized. A separate permit shall be required for selling at retail, for storing, for distributing, and for manufacturing. Any permit for the retail sale of beer may be further restricted by the beer board so as to authorize sales only for off-premises consumption. It shall be unlawful for a beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit. It shall likewise be unlawful for a permittee to fail to comply with any and all expressed restrictions or conditions which may be written into his permit by the beer board. (Ord. #91-041, Nov. 1991)

8-211. Types of permits for retail sale designated. Permits for the retail sale of beer shall be of one type:

(1) Off-premises permits. An off-premises permit shall be issued for the sale of both refrigerated and unrefrigerated beer to be consumed off the business premises.

(2) Only a natural person shall apply for and, when appropriate, be granted a permit for the retail sale of beer. If a corporation or other business organization recognized by the State of Tennessee owns and operates a merchandising business, the principal officer shall make application for the permit. If a partnership or syndicate operates a merchandising establishment, the general partner in charge of the day-to-day operations of the business shall make application for the beer permit. (Ord. #91-041, Nov. 1991, as amended by Ord. #2000-001, March 2000)

8-212. Permit application. The person desiring a beer permit required by the provisions of this chapter shall apply in writing to the beer board upon a form approved and prescribed by the beer board. Such application shall contain the following information:

(1) Name of the applicant (the owner of the business);

(2) Name of the business;

(3) Location of the business by street address or other geographical description sufficient to determine conformity with applicable requirements;

(4) If the applicant desires to sell beer at 2 or more restaurants or other businesses within the same building under the same permit, a description of each of the businesses;

(5) All persons, firms, corporations, joint-stock companies, syndicates or associations having at least a five percent (5%) ownership interest in the applicant (owner of the business);

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

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

(8) A statement that the applicant submits to a criminal background check;

(9) Any other information as may reasonably be required by the beer board. (Ord. #91-041, Nov. 1991, as amended by Ord. #2000-001, March 2000)

8-213. Application fee. The application for a beer permit shall be accompanied by certified or cashier's check in the amount of $250.00 which shall constitute an application fee for a beer permit and shall be applied to pay the beer board's expenses while processing the application. The application fee is not refundable under any conditions. (Ord. #91-041, Nov. 1991, as amended by Ord. #2000-001, March 2000)

8-214. Display of permit. A permittee hereunder shall display, and keep displayed, their beer permit in a conspicuous place on the premises where he is licensed to conduct such business. (Ord. #91-041, Nov. 1991)

8-215. Non-transferability of beer permits. A permit for the sale, storage, manufacture, or distribution of beer hereunder shall not be transferable to any other corporation or individual. The successor owner/operator of a business at which beer has been permitted for sale must apply for and be granted a beer permit in his own name in order to continue selling beer at the premises. (Ord. #91-041, Nov. 1991)

8-216. Separate permit required for each location. A separate permit must be obtained for each location at which and from which any applicant is to manufacture, store, distribute, or sell beer. (Ord. #91-041, Nov. 1991)

8-217. Restrictions upon distributors, wholesaler, warehousemen, and manufacturers. (1) All distributors, wholesalers, warehousemen, and manufacturers of beer who do business in the Town of Bluff City shall be duly licensed under the law to do business in the state.

(2) It shall be unlawful for any wholesaler, distributor, warehouseman or manufacturer of beer, or for any of their salesmen or representatives to sell or deliver beer en route, or from delivery vehicles, to any person or place other than to the holder of a valid retail beer permit. (Ord. #91-041, Nov. 1991)

8-218. Restrictions on the issuance of retail permits. No permits for the retail sale of beer shall be issued in the territory of the Town of Bluff City which lies south of the Norfolk Southern Railroad track in and to the area between said railroad track and the existing Bluff City limits as of March 2, 2000 as shown in the area outlined on the map which is attached to this ordinance as exhibit #1.[1] Pursuant to the powers conferred by Tennessee Code Annotated, § 57-5-101(a). (Ord. #91-041, Nov. 1991, as replaced by Ord. #2000-001, March 2000)

8-219. [Repealed.] This section was repealed in its entirety by Ord. #2000-001, March 2000. (Ord. #91-041, Nov. 1991, as repealed by Ord. #2000-001, March 2000)

8-220. Dealing with persons under twenty-one years of age.

(1) It shall be unlawful for any person to make or permit to be made any sales of beer to any person known to be under twenty-one (21) years of age except as allowed by the laws of the State of Tennessee. It shall also be unlawful for to permit any minor to loiter about the place of business, and the burden of ascertaining the age of such minor shall be upon the permittee or licensee of such place of business.

(2) It shall be unlawful for any person to purchase beer for the purpose of selling or giving the same to any person under twenty-one (21) except as allowed by the laws of the State of Tennessee.

(3) The provisions of this section shall not prohibit persons eighteen (18) years of age or older from selling or dispensing beer in the usual course and scope of their employment. (Ord. #91-041, Nov. 1991)

8-221. Sales to intoxicated persons. It shall be unlawful for any person or club holding a beer permit to make or allow to be made any sale of beer to any person who is intoxicated. (Ord. #91-041, Nov. 1991)

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[1]This attachment is of record in the office of the recorder.

8-222. Inspection of the premises of the permittee by town police officers. It shall be the duty of designated police officers of the Town of Bluff City to inspect the place of business and premises of the holder of any permit or license under this chapter. It shall be unlawful for any permittee to refuse to allow any such inspection during any time that the premises is open for business and any such refusal of inspection shall be grounds for revocation of the beer permit. (Ord. #91-041, Nov. 1991)

8-223. Violations. (1) An person violating any provision of this chapter shall be guilty of an offense, and in addition to being subject to the financial penalties imposed for the violation of the municipal code, shall suffer suspension or revocation of his beer permit. The violation of any of the laws of the State of Tennessee by any permittee shall also be sufficient grounds for the revocation of the beer permit.

(2) When an alleged violation of any law or ordinance by a permit holder is brought to the board's attention, the board shall schedule a hearing and give written notice of the hearing to the permit holder at least five (5) days in advance.

(3) At the hearing, the board shall hear any evidence of the alleged violation and any defense presented by the permit holder. Formal rules of evidence shall not apply at the hearing but the permit holder may be represented by an attorney.

(4) At the conclusion of the proof, and after any public discussion deemed necessary among the board members, the board shall, by a majority vote of the members present, determine whether suspension of the permit for a definite period of time, or revocation of the permit, is appropriate and shall announce its decision. The board may, at its discretion, continue the hearing to a later date in order to allow the introduction of additional, material proof before announcing its decision. The permit holder's acquittal on any state criminal charges may be considered by the board but shall not be conclusive as to whether the permit should be suspended or revoke. (Ord. #91-041, Nov. 1991)

8-224. Effect of suspension or revocation of permit. When a beer permit is suspended, no permit shall be issued to the offending permittee nor issued to any other applicant to permit the sale, storage, manufacture or distribution or beer on any premises until after the expiration of the period of suspension. In the even of a permit revocation, the offending permittee and anyone in business with him shall be ineligible from future consideration as a permit applicant. No permit shall be issued to anyone for the sale of beer at the same premises until after the expiration of one (1) year from the date of final revocation. The cessation of business by a permittee at the designated premises shall result in an immediate revocation of his beer permit. (Ord. #91-041, Nov. 1991)

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.[1]

CHAPTER

CHAPTER 1

MISCELLANEOUS

SECTION

9-101. "Going out of business" sales. It shall be unlawful for any person falsely to represent a sale as being a "going out of business" sale. A "going out of business" sale, for the purposes of this section, shall be a "fire sale," "bankrupt sale," "loss of lease sale," or any other sale made in anticipation of the termination of a business at its present location. When any person, after advertising a "going out of business" sale, adds to his stock or fails to go out of business within ninety (90) days he shall prima facie be deemed to have violated this section. (1980 Code, § 5-101)

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[1]Municipal code references
Building, plumbing, wiring and housing regulations: title 12.
Junkyards: title 13.
Liquor and beer regulations: title 8.
Noise reductions: title 11.
Zoning: title 14.

CHAPTER 2

PEDDLERS, ETC.[1]

SECTION

9-201. Permit required. It shall be unlawful for any peddler, canvasser, solicitor, or transient merchant to ply his trade within the corporate limits without first obtaining a permit in compliance with the provisions of this chapter. No permit shall be used at any time by any person other than the one to whom it is issued. (1980 Code, § 5-201)

9-202. Exemptions. The terms of this chapter shall not be applicable to persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to bona fide charitable, religious, patriotic or philanthropic organizations. (1980 Code, § 5-202)

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

(1) Name and physical description of applicant.

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

(3) A brief description of the nature of the business and the goods to be sold.

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

(5) The length of time for which the right to do business is desired.

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

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

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

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

(9) The last three (3) cities or towns, if that many, where applicant carried on business immediately preceding the date of application and, in the case of transient merchants, the addresses from which such business was conducted in those municipalities.

(10) At the time of filing the application, a fee of five dollars ($5.00) shall be paid to the town to cover the cost of investigating the facts stated therein. (1980 Code, § 5-203)

9-204. Issuance or refusal of permit. (1) Each application shall be referred to the chief of police for investigation. The chief shall report his findings to the recorder within seventy-two (72) hours.

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

(3) If, on the other hand, the chief's report indicates that the moral reputation and business responsibility of the applicant are satisfactory, the recorder shall issue a permit upon the payment of all applicable privilege taxes. The recorder shall keep a permanent record of all permits issued. (1980 Code, § 5-204)

9-205. Appeal. Any person aggrieved by the action of the chief of police and/or the recorder in the denial of a permit shall have the right to appeal to the board of mayor and aldermen. Such appeal shall be taken by filing with the mayor within fourteen (14) days after notice of the action complained of, a written statement setting forth fully the grounds for the appeal. The mayor shall set a time and place for a hearing on such appeal and notice of the time and place of such hearing shall be given to the appellant. The notice shall be in writing and shall be mailed, postage prepaid, to the applicant at his last known address at least five (5) days prior to the date set for hearing, or shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing. (1980 Code, § 5-205)

9-206. Use of streets. No permittee shall have any exclusive right to any location in the public streets, nor shall any be permitted a stationary location thereon, nor shall any be permitted to operate in a congested area where the operation might impede or inconvenience the public use of the streets. For the purpose of this chapter, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced. (1980 Code, § 5-206)

9-207. Policemen to enforce. It shall be the duty of all policemen to see that the provisions of this chapter are enforced. (1980 Code, § 5-207)

9-208. Revocation or suspension of permit. (1) Permits issued under the provisions of this chapter may be revoked by the board of mayor and aldermen after notice and hearing, for any of the following causes:

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

(b) Any violation of this chapter.

(c) Conviction of any crime or misdemeanor.

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

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

(3) When it is reasonably necessary in the public interest, the mayor may suspend a permit pending the revocation hearing. (1980 Code, § 5-208)

9-209. Reapplication. No permittee whose permit has been revoked shall make further application until a period of at least six (6) months has elapsed since the last revocation. (1980 Code, § 5-209)

9-210. Expiration and renewal of permit. Permits issued under the provisions of this chapter shall expire on the same date that the permittee's privilege license expires and shall be renewed without cost if the permittee applies for and obtains a new privilege license within thirty (30) days thereafter. Permits issued to permittees who are not subject to a privilege tax shall be issued for one (1) year. An application for a renewal shall be made substantially

in the same form as an original application. However, only so much of the application shall be completed as is necessary to reflect conditions which have changed since the last application was filed. (1980 Code, § 5-210)

CHAPTER 3

CHARITABLE SOLICITORS

SECTION

9-301. Permit required. No person shall solicit contributions or anything else of value for any real or alleged charitable or religious purpose without a permit from the city recorder authorizing such solicitation. Provided, however, that this section shall not apply to any locally established organization or church operated exclusively for charitable or religious purposes if the solicitations are conducted exclusively among the members thereof, voluntarily and without remuneration for making such solicitations, or if the solicitations are in the form of collections or contributions at the regular assemblies of any such established organization or church. (1980 Code, § 5-301)

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

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

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

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

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

(5) The solicitation is prompted solely by a desire to finance the charitable cause described by the applicant. (1980 Code, § 5-302)

9-303. Denial of a permit. Any applicant for a permit to make charitable or religious solicitations may appeal to the board of mayor and aldermen if he has not been granted a permit within fifteen (15) days after he makes application therefor. (1980 Code, § 5-303)

9-304. Exhibition of permit. Any solicitor required by this chapter to have a permit shall exhibit such permit at the request of any policeman or person solicited. (1980 Code, § 5-304)

CHAPTER 4

POOL ROOMS[1]

SECTION

9-401. Prohibited in residential areas. It shall be unlawful for any person to open, maintain, conduct, or operate any place where pool tables or billiard tables are kept for public use or hire on any premises located in any block where fifty percent (50%) or more of the land is used or zoned for residential purposes. (1980 Code, § 5-401)

9-402. Hours of operation regulated. It shall be unlawful for any person to open, maintain, conduct, or operate any place where pool tables or billiard tables are kept for public use or hire at any time on Sunday or between the hours of 11:00 P.M. and 6:00 A.M. on other days. (1980 Code, § 5-402)

9-403. Minors to be kept out; exception. It shall be unlawful for any person engaged regularly, or otherwise, in keeping billiard, bagatelle, or pool rooms or tables, their employees, agents, servants, or other persons for them, knowingly to permit any person under the age of eighteen (18) years to play on said tables at any game of billiards, bagatelle, pool, or other games requiring the use of cue and balls. This section shall not apply to the use of billiards, bagatelle, and pool tables in private residences. (1980 Code, § 5-403)

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

CHAPTER 5

CABLE TELEVISION

SECTION

9-501. To be furnished under franchise. Cable television service shall be furnished to the Town of Bluff City and its inhabitants under franchise as the board of mayor and aldermen shall grant. The rights, powers, duties and obligations of the Town of Bluff City and its inhabitants and the grantee of the franchise shall be clearly stated in the franchise agreement which shall be binding upon the parties concerned.[1]

[1]For complete details relating to the cable television franchise agreement, see ordinances of record in the office of the city recorder.

TITLE 10

ANIMAL CONTROL

CHAPTER

CHAPTER 1

IN GENERAL

SECTION

10-101. Running at large prohibited. It shall be unlawful for any person owning or being in charge of any cows, swine, sheep, horses, mules, goats, or any chickens, ducks, geese, turkeys, or other domestic fowl, cattle, or livestock, knowingly or negligently to permit any of them to run at large in any street, alley, or unenclosed lot within the corporate limits. (1980 Code, § 3-101)

10-102. Keeping near a residence or business restricted. No person shall keep any animal or fowl enumerated in the preceding section within two hundred fifty (250) feet of any residence, place of business, or public street, without a permit from the mayor. The mayor shall issue a permit only when in his sound judgment the keeping of such an animal in a yard or building under the circumstances as set forth in the application for the permit will not injuriously affect the public health. (1980 Code, § 3-102)

10-103. Keeping in such manner as to become a nuisance prohibited. No animal or fowl shall be kept in such a place or condition as to become a nuisance either because of noise, odor, contagious disease, or other reason. (1980 Code, § 3-103)

10-104. Cruel treatment prohibited. It shall be unlawful for any person unnecessarily to beat or otherwise abuse or injure any dumb animal or fowl. (1980 Code, § 3-104)

CHAPTER 2

DOGS AND CATS

SECTION

10-201. Rabies vaccination and registration required. It shall be unlawful for any person to own, keep, or harbor any dog or cat without having the same duly vaccinated against rabies and registered in accordance with the Tennessee Anti-Rabies Law or other applicable state law. (Ord. #94-009, Nov. 1994)

10-202. Animal tags. In addition to requiring rabies vaccination for dogs and cats under state law, residents of the town who own, keep, or harbor any dog or cat shall register same with town officials by purchasing a tag from the city offices. The person applying for the dog tag or cat tag shall exhibit evidence of current rabies vaccination for the animal and shall pay a registration fee. The registration for neutered animals shall be $2.00 for each animal. The registration fee for unneutered animals shall be $5.00 for each animal. Each animal owner shall register his/her animal each year with the town offices. (Ord. #94-009, Nov. 1994)

10-203. Running at large prohibited.[1] It shall be unlawful for any person knowingly to permit any dog or cat owned by him/her or under his/her control to run at large within the corporate limits of the town. Any dog found running at large within the municipal limits of the town may be seized by any police officer and placed in the county pound. If said animal is wearing a tag, the owner shall be notified by telephone or by mail addressed to his/her last known mailing address to appear within five days and redeem his/her dog by paying the county pound fees. If said animal found running at large is not wearing a tag, then the Sullivan County Pound will dispose of said animal pursuant to its own regulations. (Ord. #94-009, Nov. 1994)

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[1]State law references
Tennessee Code Annotated, §§ 44-8-408, 68-8-108, and 68-8-109.

10-204. Seizure and disposition of dogs and cats. Any dog or cat found running at large may be seized by any police officer and placed with the appropriate county officials in the county pound. Thereafter disposition of any such animal seized shall be as provided by law and county regulations. When, because of its viciousness or apparent infection of rabies, an animal found running at large cannot be safety impounded, it may be summarily destroyed by any police officer.[1]

10-205. Noisy dogs prohibited. No person shall own, keep or harbor any dog which by loud or frequent barking, whining, or howling annoys or destroys the piece and quiet of any neighborhood. (Ord. #94-009, Nov. 1994)

10-206. Vicious dogs must be confined. It shall be unlawful for any person to own or keep any dog known to be vicious or dangerous unless such dog is so confined and/or likewise securely restrained so as to prevent its attacking any member of the public which is lawfully in the vicinity of said vicious dog. (Ord. #94-009, Nov. 1994)

10-207. Confinement of animals suspected of being rabid. If any dog or cat has bitten any person or is suspected of having bitten any person or if for any reason is suspected of being rabid, the chief of police shall require such dog to be confined or isolated for such a time as he deems reasonably necessary to determine if such animal is in fact rabid. (Ord. #94-009, Nov. 1994)

10-208. Violation. Any person convicted of violating any provisions of this chapter shall, upon conviction, be fined no less than $10.00 and no more than $50.00. (Ord. #94-009, Nov. 1994)

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[1]State law reference

For a Tennessee Supreme Court case upholding the summary destruction of dogs pursuant to appropriate legislation, see Darnell v. Shapard, 156 Tenn. 544, 3 S.W. 2d 661 (1928).

TITLE 11

MUNICIPAL OFFENSES[1]

CHAPTER

CHAPTER 1

ALCOHOL[2]

SECTION

11-101. 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. (1980 Code, § 10-226)

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[1]Municipal code references
Animals and fowls: title 10.
Housing and utilities: title 12.
Fireworks and explosives: title 7.
Traffic offenses: title 15.
Streets and sidewalks (non-traffic): title 16.

[2]Municipal code reference
Sale of alcoholic beverages, including beer: title 8.
State law reference
See Tennessee Code Annotated § 33-8-203 (Arrest for Public Intoxication, cities may not pass separate legislation).

CHAPTER 2

FORTUNE TELLING, ETC.

SECTION

11-201. Fortune telling, etc. It shall be unlawful for any person to represent himself to the public as a fortune teller, clairvoyant, hypnotist, spiritualist, palmist, phrenologist, or other mystic endowed with supernatural powers. (1980 Code, § 10-230)

CHAPTER 3

[DELETED]

SECTION

11-301. [Deleted]. (1980 Code, § 10-201, as deleted by Ord. #2006-019, Sept. 2006)

CHAPTER 4

OFFENSES AGAINST THE PEACE AND QUIET

SECTION

11-401. Disturbing the peace. No person shall disturb, tend to disturb, or aid in disturbing the peace of others by violent, tumultuous, offensive, or obstreperous conduct, and no person shall knowingly permit such conduct upon any premises owned or possessed by him or under his control. (1980 Code, § 10-202)

11-402. Anti-noise regulations. Subject to the provisions of this section, the creating of any unreasonably loud, disturbing, and unnecessary noise is prohibited. Noise of such character, intensity, or duration as to be detrimental to the life or health of any individual, or in disturbance of the public peace and welfare, is prohibited.

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

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

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

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

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

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

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

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

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

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

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

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

(k) Noises to attract attention. The use of any drum, loudspeaker, or other instrument or device emitting noise for the purpose of attracting attention to any performance, show, sale or display of merchandise.

(l) Loudspeakers or amplifiers on vehicles. The use of mechanical loudspeakers or amplifiers on trucks or other moving or standing vehicles for advertising or other purposes.

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

(a) Municipal vehicles. Any vehicle of the town while engaged upon necessary public business.

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

(c) Noncommercial and nonprofit use of loudspeakers or amplifiers. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character and in the course of advertising functions sponsored by nonprofit organizations. However, no such use shall be made until a permit therefor is secured from the recorder. Hours for the use of an amplifier or public address system will be designated in the permit so issued and the use of such systems shall be restricted to the hours so designated in the permit. (1980 Code, § 10-229)

CHAPTER 5

INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL

SECTION

11-501. Escape from custody or confinement. It shall be unlawful for any person under arrest or otherwise in custody of or confined by the town 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. (1980 Code, § 10-209)

11-502. Impersonating a government officer or employee. No person other than an official police officer of the town 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 town. Furthermore, no person shall deceitfully impersonate or represent that he is any government officer or employee. (1980 Code, § 10-211)

11-503. 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. (1980 Code, § 10-216)

11-504. Resisting or interfering with town personnel. It shall be unlawful for any person knowingly to resist or in any way interfere with or attempt to interfere with any officer or employee of the town while such officer or employee is performing or attempting to perform his municipal duties. (1980 Code, § 10-210)

CHAPTER 6

FIREARMS, WEAPONS AND MISSILES

SECTION

11-601. Throwing missiles. It shall be unlawful for any person to throw maliciously any stone, snowball, bottle, or any missile, at a building, tree, or other public or private property or upon or at any person. (1980 Code, § 10-213, as replaced by Ord. #2006-018, Sept. 2006)

11-602. 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. 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 town. (1980 Code, § 10-212)

CHAPTER 7

TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC

SECTION

11-701. Trespassing. The owner or person in charge of any lot or parcel of land or any building or other structure within the corporate limits may post the same against trespassers. It shall be unlawful for any person to go upon any such posted lot or parcel of land or into any such posted building or other structure without the consent of the owner or person in charge.

It shall also be unlawful and deemed to be a trespass for any peddler, canvasser, solicitor, transient merchant, or other person to fail to leave promptly the private premises of any person who requests or directs him to leave. (1980 Code, § 10-223)

11-702. Trespassing on trains. It shall be unlawful for any person to climb, jump, step, stand upon, or cling to, or in any other way attach himself to any locomotive engine or railroad car unless he works for the railroad corporation and is acting the scope of his employment or unless he is a lawful passenger or is otherwise lawfully entitled to be on such vehicle. (1980 Code, § 10-219)

11-703. [Deleted.] (1980 Code, § 10-222, as deleted by Ord. #2006-019, Sept. 2006)

11-704. 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. (1980 Code, § 10-228)

11-705. Diving, fishing, etc. on boardwalk, bridges, and tressels prohibited. It shall be unlawful for any person to stand on the hand railing of the Bluff City Boardwalk or the top railing of the Reed H. Thomas Memorial Bridge which lies within the municipal limits of Bluff City, Tennessee. Further, it shall be unlawful for any person to jump into the river or to dive from the Bluff City Boardwalk, the Reed H. Thomas Memorial Bridge, and the railroad tressels adjacent thereto. It shall be unlawful for any person to fish from the Reed H. Thomas Memorial Bridge which lies within the municipal limits of Bluff City, Tennessee. (as added by Ord. #2000-011, Sept. 2000)

CHAPTER 8

MISCELLANEOUS

SECTION

11-801. [Deleted.] (1980 Code, § 10-220, as deleted by Ord. #2006-019, Sept. 2006)

11-802. 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. (1980 Code, § 10-227)

11-803. 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. (1980 Code, § 10-224)

11-804. Curfew for minors. It shall be unlawful for any person under the age of eighteen (18) years to be abroad at night between 9:30 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. (1980 Code, § 10-221, as replaced by Ord. #2005-015, Nov. 2005)

CHAPTER 9

SYNTHETIC MARIJUANA, "BATH SALTS" AND SIMILAR COMPOUNDS

SECTION

11-901. Findings. (1) Tennessee Code Annotated, § 30-17-438 pertaining to substances generally known as "synthetic marijuana" and Tennessee Code Annotated, § 39-17-452 pertaining to substances generally known as "bath salts" given certain actions regarding the substances listed in those statutes and certain synthetic derivatives or analogues of compounds listed therein, but the board has been informed that the chemical makeup of these synthetic drugs is or can be changed to avoid using the listed substances, while providing the same effect and detrimental health risk, making enforcement of such statutes difficult and ineffective.

(2) Synthetic marijuana and "bath salts" are being manufactured in a way to avoid the application of existing state and federal laws.

(3) Studies have indicated that synthetic marijuana usage includes the dangers associated with using natural marijuana with additional danger to the public health due, in part, to the unknown nature of any long term effects of this synthetically created substance.

(4) The board finds that synthetic marijuana (synthetic cannabinoids) or compounds that emulate or simulate the effects of synthetic cannabinoids through chemical changes such as the addition, subtraction or rearranging of a radical or the addition, subtraction or rearranging of a substituent have been developed such that it can create similar hallucinogenic qualities to natural marijuana and such items are now being possessed, distributed, and sold in the city.

(5) The board finds a manufactured product known as "bath salts," "plant food," "fake bath salts," "fake fertilizer," and/or "fake insect repellant" has been developed, and that compounds that emulate or simulate the effects of such synthetic derivatives or analogues of cathinone or methcathinone or the derivatives or analogues of the chemical or compounds listed in Tennessee Code Annotated, § 39-17-452 through chemical changes such as the addition, subtraction or rearranging of a radical or the addition, subtraction or rearranging of a substituent have been developed and are not being possessed,

distributed, and sold in the city and the usage of these compounds have effects similar to methamphetamine.

(6) The 2011 edition of the U.S. Drug Enforcement Administration's "Drugs of Abuse; A DEA Resource Guide," designates bath salts as a drug of concern which poses risks to users.

(7) The use of these types of compounds can be extremely addictive, and are not currently detectable by drug testing procedures commonly used in the workplace.

(8) The use of synthetic marijuana or "bath salts," even with the change in chemical compounds, creates a danger to the health and safety of the public, and to protect the health and welfare of the public it is necessary to prohibit the use, sale, possession and distribution of said compounds, not otherwise controlled by state or federal law.

(9) Pursuant to Article I. Section 2. Subsections (20) and (22) of the Bluff City Charter the city has the authority to license and regulate all persons, firms, corporations, companies and associations engaged in any business, occupation, calling, profession or trade not forbidden by law. To define and prohibit, abate, suppress, prevent, and regulate all acts, practices, conduct, businesses, occupations, callings, trades, uses of property and all other things whatsoever detrimental, or liable to be detrimental, to the health, morals, comfort, safety, convenience, or welfare of the inhabitants of the town, and to exercise general police powers.

(10) The use, possession, production, manufacture, distribution, transporting, selling, offer for sale, trading, bartering, exchanging or purchase of the substances addressed herein is detrimental to the health, safety, or welfare of the inhabitants of the city, and absent action by board such activity is currently lawful in the city, and to protect the health, safety and welfare of the inhabitants of the city such activity should be made unlawful. (as added by Ord. #2012-003, Feb. 2012)

11-902. <u>Definitions</u>. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section.

(1) "Package" means each single unit marketing package or packaging for the substances prohibited herein.

(2) "Practitioner" means:

(a) Any physician, dentist, optometrist, veterinarian, pharmacist, scientific investigator or other person who is licensed, registered, or otherwise lawfully permitted to distribute, dispense, conduct research with respect to, or to administer a synthetic drug as defined herein in the course of professional practice or research in the State of Tennessee; or

(b) A pharmacy, hospital or other institution licensed, registered, or otherwise lawfully permitted to distribute, dispense, conduct research with respect to, or to administer a synthetic drug as

defined herein in the course of professional practice or research in the State of Tennessee. (as added by Ord. #2012-003, Feb. 2012)

11-903. Offenses. (1) It shall be a civil offense for any person to use, possess, produce, manufacture, distribute, transport, sell, offer for sale, trade, barter, exchange or purchase any amount, including any packet, capsule, pill, or product, of any chemical compound or synthetic drug not governed by Tennessee Code Annotated, § 39-17-438 that emulates, replicates, mimics, simulates or causes a similar reaction to the effects of any synthetic drug or chemical compound listed in Tennessee Code Annotated, § 39-17-438, marijuana, cannabis or synthetic marijuana, including any drug or chemical compound that is privately compounded that circumvents the compounds listed in Tennessee Code Annotated, § 39-17-438 for synthetic cannabinoids, including through chemical changes such as the addition, subtraction or rearranging of a radical or the addition, subtraction or rearranging of a substituent.

(2) It shall be a civil offense for any person to use, possess, produce, manufacture, distribute, transport, sell, offer for sale, trade, barter, exchange or purchase any amount, including any packet, capsule, pill, or product, of any chemical compound or synthetic drug not governed by Tennessee Code Annotated, § 39-17-452 that emulates, replicates, mimics, simulates or causes effects similar to any synthetic drug or chemical compound listed in Tennessee Code Annotated, § 39-17-452, or a reaction similar to the effects of a psychoactive drug with stimulant properties which acts as a norepinephrine-dopamine reuptake inhibitor (BDRI), including any drug or chemical compound that is privately compounded that circumvents the synthetic derivatives or analogues of cathinone or methcathinone or the derivatives or analogues listed in Tennessee Code Annotated, § 39-17-452, including through chemical changes such as the addition, subtraction or rearranging of a radical or the addition, subtraction or rearranging of a substituent.

(3) It is not a defense to this offense that the item is not intended for human consumption. (as added by Ord. #2012-003, Feb. 2012)

11-904. Exceptions. (1) An act otherwise prohibited and unlawful pursuant to this chapter shall be lawful if done by or under the direction, while acting in the course of his professional practice, of a practitioner, as defined herein, provided such act is otherwise permitted by general law.

(2) The provisions of this chapter shall not apply to any substances regulated as controlled substances by the United States Food and Drug Administration or the Drug Enforcement Administration, including any dosage form that is legally obtainable from a retail establishment without a prescription and is recognized by the United States Food and Drug Administration as a homeopathic drug.

(3) This chapter is not intended to and shall not be construed to supersede any other federal or state law pertaining to synthetic drugs now or

hereafter in effect, but to supplement any such laws in so far as lawfully permitted.

(4) The provisions of this chapter shall not apply to a person in possession of a prohibited substance solely for the purpose of transporting such substance from an originating point outside the city to a destination point outside the city. (as added by Ord. #2012-003, Feb. 2012)

11-905. Penalty. Any person violating this chapter shall be guilty of an offense and shall be assessed a civil fine as a penalty of fifty dollars ($50.00) and court costs for each violation. Each day of violation shall be deemed a separate violation. The possession, production, manufacture, distribution, transportation, sell, offer for sale, trade, barter, exchange or purchase of each separate package containing any prohibited substance as set out herein shall be deemed a separate violation of this chapter. (as added by Ord. #2012-003, Feb. 2012)

11-906. Severability. It is hereby declared that the sections, clauses, sentences and parts of this chapter are severable, are not matters of mutual essential inducement, and any of them shall be exscinded if the chapter would otherwise be unconstitutional or ineffective. If any section, sentence, clause or phrase of this chapter should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this chapter. (as added by Ord. #2012-003, Feb. 2012)

TITLE 12

BUILDING, UTILITY, ETC. CODES

CHAPTER

CHAPTER 1

BUILDING AND UTILITY PERMITS[1]

SECTION

12-101. Permits required; statement at end of project. For the purpose of providing practical minimum standards for the safeguarding of persons and buildings and their contents from hazards arising from the construction, altering, repair, use, occupancy, location, maintenance, removal, and demolition of every building or structure and/or to the installation, modification, or disconnection of electrical facilities, plumbing facilities, or gas facilities, any person causing such work to be done within the Town of Bluff City must obtain a permit. Any such work set forth above shall not be commenced until said person causing said work to be done has obtained a permit from the recorder by application describing the type of work to be done. Upon completion of any project as set forth above, the applicant for the permit must file with the recorder a statement signed by the proper authority stating that all state and county regulations pertaining to the project have been complied with and the project approved. (1980 Code, § 4-101, as amended by Ord. #87-004, Aug. 1987; and Ord. #98-001, June 1998)

12-102. Building permit fees. (1) That the schedule of building permit fees shall be as follows:

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[1]Municipal code references
Fire protection, fireworks, and explosives: title 7.
Planning and zoning: title 14.
Streets and other public ways and places: title 16.
Utilities and services: titles 18 and 19.

Single wide mobile homes (per unit): $50.00
Residential building and remodeling permit fees:

Construction costs

Under $1,000.00:	$ 30.00
$ 1,000.00 - $50,000.00	$ 75.00
$ 50,001.00 - $100,000.00	$ 150.00
$ 100,001.00 - $150,000.00	$ 200.00
$ 150,001.00 - $200,000.00	$ 275.00
$ 200,001.00 and up	$ 275.00 plus $2.00 per each additional $ 1,000.00

Residential Plumbing permit fees:

Up to three fixtures:	$ 30.00 and $5.00 each additional fixture,
Inspection fees:	$ 15.00 per inspection

Residential Mechanical Permit Fees:

Units up to 2½ ton	$ 30.00 and $10.00 per ton over 2½ ton units
Inspection fees:	$ 15.00 per inspection

Commercial:

Construction costs:

$ 1,000.00 - $50,000.00	$ 150.00
$ 50,001.00 - $200,000.00	$ 275.00
$ 200,001.00 - $400,000.00	$ 500.00
$ 400,001.00 - $500,000.00	$ 675.00

$ 500,001.00 and up $1,125.00 plus $2.00 per additional $1,000.00

Commercial plumbing and mechanical fees:
Rate is same as above commercial rate

Demolition fees:
$50.00 on residential and commercial demolition projects.

That the Plans Review Fees shall be as follows:

Minimum	$25.00 (Including accessory bldgs, pools, additions, etc. in excess of $10,000)
Residential	$25.00 Per Unit (New homes, apt units, condos, etc.)
Commercial	.005 x Construction Value

(Ord. 98-001, June 1998, as amended by Ord. 2000-009, July 2000, and replaced by Ord. #2002-012, Jan. 2003)

12-103. Violations. It shall be unlawful for any person or persons to do or authorize any work described in the preceding section to be done without obtaining a permit for said project and complying with the required statement at the end of such project. (1980 Code, § 4-102)

CHAPTER 2

HOUSING CODE

SECTION

12-201. Standards for housing. 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, buildings, structures, or premises used as such, no person within the Town of Bluff City shall permit any such dwelling to be habited which would constitute a public nuisance or which would create a clear and apparent danger to the inhabitants thereof because of the lack of structural strength, stability, sanitation, adequate light, or ventilation in said dwelling. Any violation of this section is a misdemeanor. (1980 Code, § 4-201)

CHAPTER 3

MODEL ENERGY CODE[1]

SECTION

12-301. Model energy code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating the design of buildings for adequate thermal resistance and low air leakage and the design and selection of mechanical, electrical, water-heating and illumination systems and equipment which will enable the effective use of energy in new building construction, the Model Energy Code,[2] 1992 edition, as prepared and maintained by The Council of American Building Officials, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the energy code.

12-302. Modifications. Whenever the energy code refers to the "responsible government agency," it shall be deemed to be a reference to the Town of Bluff City. When the "building official" is named it shall, for the purposes of the energy code, mean such person as the board of mayor and aldermen shall have appointed or designated to administer and enforce the provisions of the energy code.

12-303. Available in recorder's office. Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the energy code has

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[1]State law reference

Tennessee Code Annotated, § 13-19-106 requires Tennessee cities either to adopt the Model Energy Code, 1992 edition, or to adopt local standards equal to or stricter than the standards in the energy code.

Municipal code references

Fire protection, fireworks, and explosives: title 7.
Planning and zoning: title 14.
Streets and other public ways and places: title 16.
Utilities and services: titles 18 and 19.

[2]Copies of this code (and any amendments) may be purchased from The Council of American Building Officials, 5203 Leesburg Pike, Falls Church, Virginia 22041.

been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

12-304. Violation and penalty. It shall be a civil offense for any person to violate or fail to comply with any provision of the energy code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty of up to five hundred dollars ($500) for each offense. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 4

STANDARD CODES ADOPTED

SECTION

12-401. Standard codes adopted. (1) The following codes and subsequent amendments made thereto are hereby adopted by reference as though they were copied herein verbatim:

(a) International Building Code, 2009 edition, along with all appendices.

(b) International Residential Code, 2009 edition, along with Appendices A, E and F and specifically excluding section 313 Automatic Fire Sprinkler Systems.

(c) Standard Amusement Device Code, 1997 edition.

(2) In the event any matters in said standard codes are contrary to any existing ordinance of the Town of Bluff City, that the respective standard code shall prevail and that any sections or subsections of any existing Town of Bluff City ordinances that are inconsistent therewith are hereby repealed in respect to the inconsistency only.

(3) Within said standard codes, when reference is made to the duties of a certain official named therein, that the designated official of the Town of Bluff City who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of said code are concerned.

(4) Any subsequent amendments made in these respective codes, are hereby adopted by reference as though they were copied herein verbatim. (as added by Ord. #2000-014, Nov. 2000, and amended by Ord. #2007-011, Jan. 2008, and Ord. #2012-009, Aug. 2012)

TITLE 13

PROPERTY MAINTENANCE REGULATIONS[1]

CHAPTER

CHAPTER 1

MISCELLANEOUS

SECTION

13-101. Smoke, soot, cinders, etc. It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes, dust, or gases as to be detrimental to or to endanger the health, comfort, and safety of the public or so as to cause or have a tendency to cause injury or damage to property or business. (1980 Code, § 8-104)

13-102. Stagnant water. It shall be unlawful for any person knowingly to allow any pool of stagnant water to accumulate and stand on his property without treating it so as effectively to prevent the breeding of mosquitoes. (1980 Code, § 8-105)

13-103. Weeds. Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds on his property, and it shall be unlawful for any person to fail to comply with an order by the

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[1]Municipal code references
Animal control: title 10.
Littering streets, etc.: § 16-107.
Toilet facilities in beer places: § 8-211(10).

recorder or chief of police to cut such vegetation when it has reached a height of over one (1) foot. (1980 Code, § 8-106)

13-104. Health and sanitation nuisances. It shall be unlawful for any person to permit any premises owned, occupied, or controlled by him to become or remain in a filthy condition, or permit the use or occupation of same in such a manner as to create noxious or offensive smells and odors in connection therewith, or to allow the accumulation or creation of unwholesome and offensive matter or the breeding of flies, rodents, or other vermin on the premises to the menace of the public health or the annoyance of people residing within the vicinity. (1980 Code, § 8-107)

13-105. House trailers. It shall be unlawful for any person to park, locate, or occupy any house trailer or portable building unless it complies with all plumbing, electrical, sanitary, and building provisions applicable to stationary structures and unless a permit therefor shall have been first duly issued by the recorder. (1980 Code, § 8-103)

13-106. Overgrown and dirty lots.[1] (1) Prohibition. Pursuant to the authority granted to municipalities under Tennessee Code Annotated, § 6-54-113, it is unlawful for any owner of record of real property to create, maintain, or permit to be maintained on such property the growth of trees, vines, grass, underbrush and/or the accumulations of debris, trash, litter, or garbage or any combination of the preceding elements so as to endanger the health, safety, or welfare of other citizens or to encourage the infestation of rats and other harmful animals.

(2) Complaint. Upon receipt of a complaint either written or oral the board of mayor and aldermen shall determine if an enforcement action is necessary and so instruct the town manager.

(3) Designation of public officer. The town manager shall enforce the provisions of this section.

(4) Notice to property owner. It is the duty of the department or person designated by the board of mayor and aldermen to enforce this section to serve notice upon the owner of record in violation of subsection (1) above, a notice in plain language to remedy the condition within ten (10) days (or twenty (20) days if the owner of record is a carrier engaged in the transportation of

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[1]Municipal code reference

§ 13-103 applies to cases where the city wishes to prosecute the offender in city court. § 13-106 can be used when the city seeks to clean up the lot at the owner's expense and place a lien against the property for the cost of the clean-up but not to prosecute the owner in city court.

property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), excluding Saturdays, Sundays, and legal holidays. The notice shall be sent by registered or certified United States Mail, addressed to the last known address of the owner of record. The notice shall state that the owner of the property is entitled to a hearing, and shall, at the minimum, contain the following additional information:

(a) A brief statement that the owner is in violation of §13-106 of the Town of Bluff City Municipal Code, which has been enacted under the authority of Tennessee Code Annotated, §6-54-113, and that the property of such owner may be cleaned up at the expense of the owner and a lien placed against the property to secure the cost of the clean-up;

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

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

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

(5) Clean-up at property owner's expense. If the property owner of record fails or refuses to remedy the condition within ten (10) days after receiving the notice (twenty (20) days if the owner is a carrier engaged in the transportation of property or is a utility or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), the department or person designated by the board of mayor and aldermen to enforce the provisions of this section shall immediately cause the condition to be remedied or removed at a cost in conformity with reasonable standards, and the costs thereof shall be assessed against the owner of the property. The city may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The city may bring one (1) action for debt against more than one (1) or all of the owners of properties against whom such costs have been assessed, and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. Upon the filing of the notice with the office of the Register of Deeds in Sullivan County, the costs shall be a lien on the property in favor of the municipality, second only to liens of the state, county, and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be placed on the tax rolls of the municipality as a lien and shall be added to property tax bills to be collected at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes.

(6) Clean-up of owner-occupied property. When the owner of an owner-occupied residential property fails or refuses to remedy the condition

within ten (10) days after receiving the notice, the department or person designated by the board of mayor and aldermen to enforce the provisions of this section shall immediately cause the condition to be remedied or removed at a cost in accordance with reasonable standards in the community, with these costs to be assessed against the owner of the property. The provisions of subsection (5) shall apply to the collection of costs against the owner of an owner-occupied residential property except that the municipality must wait until cumulative charges for remediation equal or exceed five hundred dollars ($500.00) before filing the notice with the register of deeds and the charges becoming a lien on the property, After this threshold has been met and the lien attaches, charges for costs for which the lien attached are collectible as provided in subsection (5) for these charges.

(7) Appeal. The owner of record who is aggrieved by the determination and order of the public officer may appeal the determination and order to the board of mayor and aldermen. The appeal shall be filed with the city recorder within ten (10) days following the receipt of the notice issued pursuant to subsection (4) above. The failure to appeal within this time shall, without exception, constitute a waiver of the right to a hearing.

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

(9) Supplemental nature of this section. The provision of this section are in addition and supplemental to, and not in substitution for, any other provision in the municipal charter, this municipal code of ordinances or other applicable law which permits the city to proceed against an owner, tenant or occupant of property who has created, maintained, or permitted to be maintained on such property the growth of trees, vines, grass, weed g, underbrush and/or the accumulation of the debris, trash, litter, or garbage or any combination of the preceding elements, under its charter, any other provisions of this municipal code of ordinances or any other applicable law. (Ord. #95-002, April 1995, as replaced by Ord. #2008-006, June 2006)

CHAPTER 2

JUNKYARDS

SECTION

13-201. Junkyards.[1] All junkyards within the corporate limits shall be operated and maintained subject to the following regulations:

(1) All junk stored or kept in such yards shall be so kept that it will not catch and hold water in which mosquitoes may breed and so that it will not constitute a place, or places in which rats, mice, or other vermin may be harbored, reared, or propagated.

(2) All such junkyards shall be enclosed within close fitting plank or metal solid fences touching the ground on the bottom and being not less than six (6) feet in height, such fence to be built so that it will be impossible for stray cats and/or stray dogs to have access to such junkyards.

(3) Such yards shall be so maintained as to be in a sanitary condition and so as not to be a menace to the public health or safety. (1980 Code, § 8-109)

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[1]State law reference

The provisions of this section were taken substantially from the Bristol ordinance upheld by the Tennessee Court of Appeals as being a reasonable and valid exercise of the police power in the case of Hagaman v. Slaughter, 49 Tenn. App. 338, 354 S.W.2d 818 (1961).

CHAPTER 3

SLUM CLEARANCE[1]

SECTION

13-301. Findings of board. Pursuant to Tennessee Code Annotated, § 13-21-101, et seq., the board of mayor and aldermen finds that there exists in the town structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the town. (Ord. #86-_____, Dec. 1986)

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

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

(3) "Municipality" shall mean the Town of Bluff City, Tennessee, and the areas encompassed within existing town limits or as hereafter annexed.

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

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[1]State law reference
Tennessee Code Annotated, title 13, chapter 21.

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

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

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

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

(9) "Structure" means any dwelling or place of public accommodation or vacant building or structure suitable as a dwelling or place of public accommodation. (Ord. #86-_____, Dec. 1986)

13-303. "Public officer" designated; powers. There is hereby designated and appointed a "public officer," to be the mayor of the town, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the mayor. (Ord. #86-_____, Dec. 1986)

13-304. Initiation of proceedings; hearings. Whenever a petition is filed with the public officer by a public authority or by at least five (5) residents of the town charging that any structure is unfit for human occupancy or use, or whenever it appears to the public officer (on his own motion) that any structure is unfit for human occupation or use, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of, and parties in interest of, such structure a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer (or his designated agent) at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the service of the complaint; and the owner and parties in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the time and place fixed in the complaint; and the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer. (Ord. #86-_____, Dec. 1986)

13-305. Orders to owners of unfit structures. If, after such notice and hearing as provided for in the preceding section, the public officer determines that the structure under consideration is unfit for human occupation or use, he shall state in writing his finding of fact in support of such

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

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

(2) If the repair, alteration or improvement of said structure cannot be made at a reasonable cost in relation to the value of the structure (not to exceed fifty percent [50%] of the value of the premises), requiring the owner within the time specified in the order, to remove or demolish such structure. (Ord. #86-_____, Dec. 1986)

13-306. When public officer may repair, etc. If the owner fails to comply with the order to repair, alter, or improve or to vacate and close the structure as specified in the preceding section hereof, the public officer may cause such structure to be repaired, altered, or improved, or to be vacated and closed; and the public officer may cause to be posted on the main entrance of any dwelling so closed, a placard with the following words: "This building is unfit for human occupation or use. The use or occupation of this building for human occupation or use is prohibited and unlawful." (Ord. #86-_____, Dec. 1986)

13-307. When public officer may remove or demolish. If the owner fails to comply with an order, as specified above, to remove or demolish the structure, the public officer may cause such structure to be removed and demolished. (Ord. #86-_____, Dec. 1986)

13-308. Lien for expenses; sale of salvaged materials; other powers not limited. The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer shall be assessed against the owner of the property, and shall upon the filing of the notice with the office of the register of deeds of Sullivan County, be a lien on the property in favor of the municipality, second only to liens of the state, county and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be collected by the municipal tax collector or county trustee at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes. In addition, the municipality may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The municipality may bring one (1) action

for debt against more than one or all of the owners of properties against whom said costs have been assessed and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. If the structure is removed or demolished by the public officer, he shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the chancery court of Sullivan County by the public officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the person found to be entitled thereto by final order or decree of such court. Nothing in this section shall be construed to impair or limit in any way the power of the Town of Bluff City to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. (Ord. #86-_____, Dec. 1986)

13-309. Basis for a finding of unfitness. The public officer defined herein shall have the power and may determine that a structure is unfit for human occupation and use if he finds that conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants or users of such structure, the occupants or users of neighboring structures or other residents of the Town of Bluff City. Such conditions may include the following (without limiting the generality of the foregoing): defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; or uncleanliness. (Ord. #86-_____, Dec. 1986)

13-310. Service of complaints or orders. Complaints or orders issued by the public officer pursuant to this chapter shall be served upon persons, either personally or by registered mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper printed and published in the town. In addition, a copy of such complaint or order shall be posted in a conspicuous place on premises affected by the complaint or order. A copy of such complaint or order shall also be filed for record in the Register's Office of Sullivan County, Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law. (Ord. #86-_____, Dec. 1986)

13-311. Enjoining enforcement of orders. Any person affected by an order issued by the public officer served pursuant to this chapter may file a bill in chancery court for an injunction restraining the public officer from carrying out the provisions of the order, and the court may, upon the filing of such suit, issue a temporary injunction restraining the public officer pending the final

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

The remedy provided herein shall be the exclusive remedy and no person affected by an order of the public officer shall be entitled to recover any damages for action taken pursuant to any order of the public officer, or because of noncompliance by such person with any order of the public officer. (Ord. #86-_____, Dec. 1986)

13-312. Additional powers of public officer. The public officer, in order to carry out and effectuate the purposes and provisions of this chapter, shall have the following powers in addition to those otherwise granted herein:

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

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

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

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

(5) To delegate any of his functions and powers under this chapter to such officers and agents as he may designate. (Ord. #86-_____, Dec. 1986)

13-313. Powers conferred are supplemental. This chapter shall not be construed to abrogate or impair the powers of the town with regard to the enforcement of the provisions of its charter or any other ordinances or regulations, nor to prevent or punish violations thereof, and the powers conferred by this chapter shall be in addition and supplemental to the powers conferred by the charter and other laws. (Ord. #86-_____, Dec. 1986)

13-314. Structures unfit for human habitation deemed unlawful. It shall be unlawful for any owner of record to create, maintain or permit to be maintained in the town structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the town.

Violations of this section shall subject the offender to a penalty of up to fifty dollars ($50.00) for each offense. Each day a violation is allowed to continue shall constitute a separate offense. (Ord. #86-_____, Dec. 1986, as amended by Ord. #2005-003, May 2005)

CHAPTER 4

STORAGE OF AUTOMOBILES

SECTION

13-401. Accumulation of discarded personal property prohibited except under certain conditions. It shall be unlawful for the owner(s) or occupant(s) of real property within the municipal limits of Bluff City to allow litter, debris, trash, or discarded items of personal property to accumulate and remain on said property. Any items of personal property which are damaged, dilapidated, or which are lying or stacked about the property in a state of disarray shall be deemed to be discarded for the purposes of this chapter. All litter, trash, debris, and discarded items of personal property shall be placed by the property owner or occupant in secured refuse containers for prompt disposal. If the owner or occupant desires to retain possession of personal property items which would otherwise fall within the prohibitions of this chapter, he or she shall place the items within a permanent structure lawfully erected on the premises. (Ord. #91-033, Sept. 1991)

13-402. The fencing of commercial storage areas which utilize vehicle salvage parts is required. (1) Commercial enterprises and businesses which utilize, or otherwise lawfully maintain on their premises, damaged or salvaged miscellaneous motor vehicle parts and damaged or salvaged motor vehicle bodies shall enclose all such motor vehicle salvage material in a permanent structure on the business premises or shall enclose all such motor vehicle material within a fence which completely screens said materials from the view of neighbors and passing motorists. The fence shall be of sufficient heights to obstruct the view of the public from any side of the commercial property which is open to public view from a road right-of-way. When the topography of the commercial premises prevents a fence from shielding fifty percent (50%) or more of the storage area from public view the business may utilize a six foot (6') fence on that portion of its storage perimeter.

(2) Stored motor vehicles which have less than all their wheels and tires supporting the vehicle or which are supported in any manner by jacks, blocks, or hoists shall be enclosed in a permanent structure or within a fenced area as described herein. Access to the fenced in area shall be closed and locked during non-business hours.

(3) Any fence required by the provisions of this code shall be sturdily constructed in such a manner so as to completely obstruct the view of passersby and shall be composed of weather resistant materials normally utilized in commercial fence construction. No building salvage materials such as aluminum siding, tin roofing, or rusted metal parts shall be used in the construction of the fence. Topographical conditions which eliminate the need for a screening fence shall not affect the fencing of junkyards as mandated by other provisions of this code. (Ord. #91-033, Sept. 1991)

13-403. Paved portions of highways and roads, and all rights-of-way must be kept clear of vehicle parts. No motor vehicle parts, business inventory, or miscellaneous personal property of any description shall be placed or laid, either temporarily or for storage purposes, upon any road or highway right-of-ways within the corporate limits, nor upon the paved portions or shoulders of any road or right-of-way within the corporate limits. (Ord. #91-033, Sept. 1991)

13-404. Open storage of inoperable or unregistered motor vehicles is prohibited. (1) The use of property within the corporate limits as a storage lot or parking grounds for infrequently operated, inoperable, unregistered, or damaged motor vehicles is expressly forbidden unless the property owner or occupant obtains a special permit to utilize his premises as an automobile storage lot.

(2) A business which repairs motor vehicles shall not be required to obtain such a permit unless vehicles are stored or parked overnight on the premises. The permit shall be issued by the town's city manager and shall specify the permissible parking arrangement of the vehicles upon the premises so as to assure access by municipal service and emergency vehicles to the parked vehicles and to the structures on the property.

(3) Businesses engaged in the repair of motor vehicles shall not park or allow the parking of their customers' inoperable vehicles upon the municipal rights of way adjacent to their premises.

(4) Junk vehicles or abandoned vehicles shall not be parked or stored on town streets, public highways, any public right-of-way, or any public property. The town, through its police department, may tow and impound any "junk vehicle" or "abandoned vehicle" pursuant to the provisions of Tennessee Code Annotated, § 55-16-104 through Tennessee Code Annotated, § 55-16-110. The town shall follow the procedures for notification of the last known owner of the abandoned vehicle and the methods of vehicle disposal which are set out in

the provisions of Tennessee Code Annotated, § 55-16-104 through § 55-16-110. Any motor vehicle or former motor vehicle shall be considered a "junk vehicle" or an "abandoned vehicle" for purposes of its being towed and impounded by the Town of Bluff City if it meets three of the four following criteria:

(a) The vehicle is two years old, or older; and

(b) The vehicle is damaged or defected in any one or a combination of any of the following ways which indicate that the vehicle could not reasonably and safely be operated upon the streets and highways of the town under its own power:

(i) Broken or cracked window or windshield; or

(ii) Missing tires or missing or partially or totally disassembled tires and wheels; or

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

(iv) Extensive exterior body damage or missing or partially or totally disassembled exterior body parts essential to the reasonably safe operation of the motor vehicle, such as, but not limited to fenders, doors, engine hood; or

(v) Missing or partially or totally disassembled interior parts essential to the reasonably safe operation of the motor vehicle, such as, but not limited to, driver's seat, steering wheel, instrument panel; or

(vi) Missing or partially or totally disassembled other parts essential to the starting or running of vehicle under its own power, such as, but not limited to, starter, generator or alternator, battery, distributor, gas tank, radiator; or

(vii) The interior is a container for metal, glass, paper, rags, wood, machinery, parts, cloth or other waste or discarded materials in one or any combination of such materials in such quantity and arrangement that the vehicle cannot be reasonably safely operated upon the streets and highways; and

(c) The vehicle does not have a current state license plate affixed at the rear of the vehicle as prescribed by state law; and

(d) The vehicle has been parked in the same location on a public right-of-way for more than seventy-two (72) hours.

(5) The storage or extended parking of motor vehicles on property overgrown with weeds and other vegetation by the owner or occupant of the property or by the owner of the motor vehicle is expressly prohibited. Property shall be deemed to be overgrown with weeds and vegetation when such growth is tall enough to touch, or does touch, any part of the body (i.e., bumper, side panels, exhaust system, etc.) of the motor vehicle parked thereon. (Ord. #91-033, Sept. 1991, as amended by Ord. #95-001, March 1995)

13-405. <u>Notice of violation is to be given offenders prior to issuance of a citation</u>. (1) The town shall give any property owner or occupant who violates the provisions of this chapter written notice that said owner or occupant shall have ten (10) days in which to comply with the terms of this chapter or be fined not less than twenty-five dollars ($25) nor more than fifty dollars ($50) for each day that he or she continues to violate the terms of this chapter.

(2) Written notice shall be served on said owner or occupant personally or by certified mail. Each day that the parking or storage of a motor vehicle violates the terms of this chapter shall be a separate offense. Each day that litter or personal property remains in a discarded state on the property in violation of this chapter shall be a separate offense.

(3) In the event that an owner or occupant of property refuses or fails to comply with the written notice served upon him pursuant to the provisions of this chapter for more than ten (10) days after service of said notice, the town may institute an action in the chancery court to secure the enforcement of the provisions of this chapter and to require that the property owner or occupant take necessary and appropriate action to bring his property into compliance. (Ord. #91-033, Sept. 1991)

TITLE 14

ZONING AND LAND USE CONTROL

CHAPTER

CHAPTER 1

MUNICIPAL PLANNING COMMISSION

SECTION

14-101. Creation and membership. Pursuant to the provisions of Tennessee Code Annotated, § 13-4-101 there is hereby created a municipal planning commission, hereinafter referred to as the planning commission. The planning commission shall consist of five (5) members; two (2) of these shall be the mayor and another member of the board of mayor and aldermen selected by the board of mayor and aldermen; the other three (3) members shall be appointed by the mayor. All members of the planning commission shall serve as such without compensation. Except for the initial appointments, the terms of the three (3) members appointed by the mayor shall be for three (3) years each. The three (3) members first appointed shall be appointed for terms of one (1), two (2), and three (3) years respectively so that the term of one (1) member expires each year. The terms of the mayor and the member selected by the board of mayor and aldermen shall run concurrently their terms of office. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor. (1980 Code, § 11-101)

14-102. Organization, powers, duties, etc. The planning commission shall be organized and shall carry out its powers, functions, and duties in accordance with all applicable provisions of Tennessee Code Annotated, title 13. (1980 Code, § 11-102)

CHAPTER 2

ZONING ORDINANCE[1]

SECTION

14-201. Land use to be governed by zoning ordinance. Land use within the Town of Bluff City shall be governed by Ordinance #95-012, titled "Zoning Ordinance, Bluff City, Tennessee," and any amendments thereto.[2]

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[1]The Floodplain Zoning Ordinance #2006-002, is available in the office of the city recorder.

[2]Ordinance #95-012, and any amendments thereto, are published as separate documents and are of record in the office of the city recorder.

CHAPTER 3

MOBILE HOME PARK REGULATIONS

SECTION

14-301. Purpose. Because of their unusual characteristics, mobile home parks pose special problems in the application of land use control techniques and require special consideration as to their proper location and character in relation to adjacent uses and to the development of the community, and as to the circumstances and conditions under which they may be permitted. The standards provided in this chapter represent an attempt to provide adequate protection for, and consideration of, both the community and the mobile home dweller. (Ord. #97-015, Jan. 1998)

14-302. Applicability. The provision of this chapter shall apply to the following:

(1) All new mobile home parks located within the Town of Bluff City. In any district in which mobile home parks are permitted, the following regulations shall apply:

(2) Any additions made to existing mobile home parks located within the Town of Bluff City which extend the number of dwelling units or the area occupied by dwelling units beyond that originally approved by the planning commission.

(3) Mobile home subdivisions located within the Town of Bluff City shall comply with all applicable provisions of the Bluff City Subdivision Regulations, as amended. (Ord. #97-015, Jan. 1998)

14-303. Definitions. The following definition shall apply in the interpretation and application of this chapter for the purpose of this chapter, certain words or terms used herein shall be defined as follows: words used in the

present tense include the future tense; words used in the singular number include the plural; and words used in the plural include the singular. The word "shall" is always mandatory, not directory. And the word "may" is permissive.

"Access road." A road is entirely located within a mobile home park and which is designed to provide mobile home park residents with an opportunity for vehicular movement both within the park and to the nearest public right-of-way.

"Alley." A public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is one some other street.

"Buffer strip." A solid wall, fence, evergreen hedge, or similar screening device not less than seven (7) feet high.

"Building inspector." The officer, or his duly authorized representative, charged with the administration and enforcement of this chapter.

(1) "Mobile home mobile." A detached single family dwelling unit with all of the following characteristics:

(a) Designed for long-term occupancy and containing sleeping accommodation, a flush toilet, a tub or shower bath, and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems.

(b) Designed to be transported after fabrication on its own wheels, or on flatbed or other trailers or detachable wheels. Manufactured housing as defined by state legislation shall not be considered mobile homes.

(c) Arriving at the site where it is to be occupied as a dwelling complete, including major appliances and furniture, and read for occupancy except for minor and incidental unpacking and assembly operations, location on foundation supports, connection to utilities, and the like.

(2) "Mobile home park" shall mean any plat of ground under single ownership containing a minimum of two (2) acres upon which two (2) or more mobile homes are located or are intended to be located. A mobile home park, however, does not include sites where unoccupied mobile homes are on display for sale.

(3) "Health officer" shall mean the health officer of the Town of Bluff City, Tennessee or his authorized representative.

(4) "Building inspector" shall mean the building inspector of the Town of Bluff City, Tennessee, or his authorized representative.

(5) "Plumbing inspector" shall mean the plumbing inspector of the Town of Bluff City, Tennessee, or his authorized representative.

(6) "Electrical inspector" shall mean the electrical inspector of the Town of Bluff City, Tennessee, or his authorized representative.

"Mobile home space." The lot area allocated for an individual mobile home. This area includes the land under which the actual mobile home is

located and the required front, side and rear yards for the associated mobile home.

"Mobile home subdivision." A subdivision designed and/or intended for the sale of lots for siting mobile homes. (Ord. #97-015, Jan. 1998)

14-304. Standards. (1) Minimum standards. The following minimum standards shall apply to all mobile home parks.

(a) The site shall be located on a well drained and flood free site with proper drainage.

(2) General standards. (a) Mobile homes shall not be used for commercial, industrial, or other nonresidential uses within the mobile home park, except that one (1) mobile home in the park may be used to house a management office or similar facility noted below in subsection (b).

(b) Each mobile home park shall be provided with a management office and such service buildings as are necessary to provide facilities for mail distribution, storage space for supplies, maintenance materials and equipment, and laundry facilities equipped with washing machines and dryers. All service buildings shall be not more than four hundred (400) feet from the spaces which they solely serve and shall be of permanent construction and maintained in a clean and sanitary condition.

(c) In each mobile home park, the duly authorized attendant or caretaker shall be charged at all times to keep the mobile home park, its facilities and equipment in a clean, orderly, safe and sanitary condition.

(d) Cabanas, travel trailers and other similar enclosed structures are allowed provided they are kept in areas which are separate from mobile home spaces. These units shall be limited to a period of two weeks not to exceed four times a year.

(e) Each mobile home shall have a non-combustible, corrosive resistant skirt extending from the bottom of the mobile home to the mobile home space pad foundation. Said skirt shall be provided with an access way with a door measuring at least eighteen (18) inches by twenty-four (24) inches; and further, said skirt shall be constructed so as to prohibit insect and rodent infestation. The site shall not be exposed to objectionable smoke, noise, insect, or rodent harborage or other adverse influences. (Ord. #97-015, Jan. 1998)

14-305. Density and dimension requirements for mobile home parks. (1) Mobile home parks shall be subject to the density provisions of the zoning district in which they are located. The minimum area for a mobile home park is two (2) acres.

(2) Each mobile home park shall meet the following minimum setback requirements, irrespective of the zoning district in which the park is proposed:

Front yard setback	30 feet
Side yard setback	20 feet
Rear yard setback	20 feet

In instances where a side or rear yard abuts on a public right-of-way, the minimum setback shall be thirty (30) feet.

(3) No building or structure erected or stationed in a mobile home park shall have a height greater than two (2) stories or thirty-five (35) feet, whichever is less, unless such building or structure is exempted from height limitations, as provided in the Town of Bluff City Zoning Ordinance. (Ord. #97-015, Jan. 1998)

14-306. Density and dimension requirements for mobile home spaces. (1) The minimum lot area per mobile home space shall be five thousand (5,000) square feet. For double wide mobile homes, the minimum lot area shall be seven thousand five hundred (7,500) square feet. This lot area, in addition to including the space on which a mobile home is located, shall also include driveways, off street parking spaces (not including those for travel trailers and similar structures), accessory building space, and required front, side and rear yards.

(2) Each mobile home space shall be at least forty (40) feet wide and such space shall be clearly marked by permanent markers.

(3) There shall be a front yard setback of at least ten (10) feet from all access roads within the mobile home park.

(4) Mobile homes shall be placed on each space so that there shall be at least a twenty (20) foot clearance between mobile homes, provided however, with respect to mobile homes parked end to end, clearance shall be not less than sixteen (16) feet. No mobile home shall be located closer than twenty (20) feet from any building within the mobile home park. (Ord. #97-015, Jan. 1998)

14-307. Sign specifications. (1) Mobile home parks shall be permitted to display, on each public right-of-way frontage, one (1) free standing sign not to exceed twelve (12) feet in height and thirty (30) square feet in area to identify the name, address, and phone number of the park, provided such sign(s) are in compliance with all applicable provisions of the Town of Bluff City Sign Ordinance.[1]

(2) Each occupant of a mobile home space shall be permitted one (1) wall sign, provided such signs is flush with the mobile home, does not exceed four (4) square feet in area and meets all other applicable requirements of the Town of Bluff City Sign Ordinance.[1] (Ord. #97-015, Jan. 1998)

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[1]Municipal code reference
Sign ordinance: title 14, ch. 5.

14-308. Road specifications. (1) All roads within a mobile home park shall be private and shall not be accepted as public roads, unless such roads first meet all applicable requirements noted in the Town of Bluff City Subdivision Regulations and are formally offered to and accepted by the Town of Bluff City.

(2) Each mobile home park site shall be located with at least forty (40) feet of frontage on a public right-of-way. Each mobile home space shall contain a driveway which intersects an access road. Each access road shall provide unobstructed vehicular access to a public right-of-way.

(3) Sole vehicular access shall not be through an alley.

(4) Private access roads and driveways in a mobile home park shall be paved to a width of not less than twenty (20) feet and shall consist of a five (5) inch compacted crushed stone base with a two (2) inch compacted asphaltic concrete plant mix surface.

(5) Dead end access roads shall contain a paved cul-de-sac or other permanent turn around. Such turn around shall be constructed of at least a five (5) inch crushed rock base and a two (2) inch compacted asphaltic concrete plant mix surface. Moreover, such permanent turn around space shall have a minimum diameter, as measured from the widest point, of at least seventy (70) feet, unless a higher standard is required for emergency vehicle access. (Ord. #97-015, Jan. 1998)

14-309. Parking space specifications. (1) There shall be at least one (1) paved, off street parking space for each mobile home space, which shall be on the same mobile home space as the mobile home served, and may be located in the rear or side yard of the associated mobile home space.

(2) Additional parking space may be required in separate areas for travel trailers, tractor trailers, boats, and other accessory vehicles. Approval for such space shall be made by the planning commission during the mobile home site plan review process.

(3) Any parking spaces separate from individual mobile home spaces may be required to include spaces for the physically handicapped. (Ord. #97-015, Jan. 1998)

14-310. Utility specifications. (1) Sewer, water (including fire hydrants), gas, electricity, storm sewer, telephone, cable and other utilities shall be installed at the expense of the developer or owner. Such utilities shall also be installed prior to the initiation of any road surfacing activities.

(2) Utility easements no less than eight (8) feet wide shall be required along each side of all private access roads for the extension of existing or planned utilities. Vegetated drainage easements of no less than fifteen (15) feet shall be provided on each side of the top bank of a stream or other permanent water body existing on the mobile home park site. Such area may be considered as part of the open space required section 14-312.

(3) Fire hydrants shall be required and shall be located no more than one thousand (1,000) feet apart and within five hundred (500) feet of any structure.

(4) All access roads and walkways shall be lighted with security lights spaced no further than one hundred fifty (150) feet from each other. (Ord. #97-015, Jan. 1998)

14-311. Topographic and drainage specifications. (1) The proposed park shall be located on a well drained and flood free site as determined by the erosion control plans (drainage plans) prepared for the proposed park. In all cases water runoff and erosion and sediment control plans shall be prepared by a licensed engineer who specializes in hydrology. At a minimum, such plans shall include calculation and narrative which indicate specifically how surface water runoff and erosion and sedimentation will be controlled so that off site properties and water systems will be unaffected by the proposed development. Drawings, including cross sections, shall be provided which graphically demonstrate existing and proposed water flows and which include the location, dimensions and materials associated with pipes, storm drains, detention and dissipation basins, swells, and other control measures and structures. The location of straw bales, rip rap, silt fences and other erosion and sediment control measures shall also be included. And, the "drainage plan" shall include a letter which states that the hydrologist certifies that, by adhering to the design provided in the plan, post development surface water runoff will not exceed predevelopment surface water runoff for the 10 year 24 hour storm event. In cases where a mobile home park is to be completed in phases, water runoff and erosion control measures shall be established and completed for each phase prior to initiating a new phase. (Ord. #97-015, Jan. 1998)

14-312. Buffering and open space specifications. (1) There shall be buffer strips as defined in § 14-403 along side and rear lot lines of the mobile home park. The buffer strips shall be arranged so that the park is entirely enclosed, with the exception of driveways and space required for front yards.

(2) Each mobile home park shall provide a common area for playgrounds and leisure time pursuits totaling a minimum of five hundred (500) square feet for each mobile home space, exclusive of roadways, required yards for mobile home spaces and parking spaces. Buffer strips, as required in § 14-312(1) may be counted toward common area requirements.

(3) Any part of the park area not used for buildings or other structures, parking, or access ways shall be landscaped with grass trees shrubs, and pedestrian walks. Moreover, such landscaping shall be maintained to an extent which meets all town codes.

(4) Walkways not less than two (2) feet wide shall be provided from mobile home spaces to service buildings. (Ord. #97-015, Jan. 1998)

14-313. Application process for a mobile home park.

(1) Preliminary general plan mobile home park development plat. As an initial phase of the application process for a mobile home park, the Town of Bluff City Planning Commission shall review a preliminary mobile home park development plan. The plan shall be submitted to the town planner no later than the last business day of the month preceding the meeting in which the planning commission review is requested. In addition, a copy of the plan shall be submitted to all representatives who may provide utilities to the park. The submission to utility representatives shall take place at least fifteen (15) calendar days prior to the planning commission meeting. At a minimum, the preliminary mobile home park development plan shall include the following:

(a) General requirements. (i) A vicinity map which shows streets and other general development of the surrounding area.

(ii) An indication of existing land uses associated with property adjacent to the proposed park, including adjacent zoning.

(iii) An indication of the total acreage associated with the mobile home park.

(iv) The location of the mobile home park with labeled dimensions which show the property in relation to required setback lines. A certificate of accuracy signed by the surveyor shall also be submitted for the survey of the property boundary and any internal subdivisions. In all cases property to be subdivided shall adhere to the Town of Bluff City Subdivision Regulations.

(v) The location and dimensions of all uses and improvements constructed or to be constructed within the mobile home park.

(vi) The location, dimensions, and areas of all proposed or existing lots or mobile home park spaces.

(vii) The distance between proposed mobile homes and their mobile home space boundaries.

(viii) An indication of the date, the approximate north point, and a graphic scale no less than one inch (1) equals one hundred (100) feet.

(b) Name requirements. (i) The name of the proposed mobile home park.

(ii) The name and address, including telephone number, of the legal owner or agent of property.

(iii) The name and address including telephone number of the professional person(s) responsible for the design of the proposed park.

(iv) The name and address, including telephone number of the certified engineers responsible for the drainage and erosion control plan.

(c) Legal information. (i) Citation of the last instrument conveying title to the property proposed for the mobile home park.

(ii) Citation of any existing legal rights-of-way or easements affecting the property.

(iii) Location of property, in terms of tax map and parcel reference.

(iv) A plan for establishing easements for utilities, drainage systems, and pedestrian networks.

(v) The location and dimensions of existing easements and rights-of-way.

(d) Natural features and drainage information. (i) Approximate topography including, at a minimum, spot elevations.

(ii) A drainage plan as discussion in subsection 14-311(1) of this chapter.

(iii) If the proposed park is to involve construction activities, such as clearing, grading and excavation, which will result in the disturbance of more than five (5) acres, the Tennessee Department of Environment and Conservation requires that a notice of intent (NOI) form be completed and filed with the state. A completed copy of this form shall also be required for submission as part of the preliminary mobile home park development plan.

(e) Infrastructure and parking space information. (i) The location, width, grade and name of all existing and proposed streets within or immediately adjacent to the subject property.

(ii) A cross section of proposed access roads. Such cross section shall indicate the depth and materials associated with both the base and the surface layer.

(iii) The location and dimensions of existing and proposed points of ingress and egress both within and adjacent to the subject property.

(iv) The location, dimensions, and lighting systems associated with proposed off street parking facilities. Handicapped parking spaces shall also be indicated on the plan.

(v) The location, dimensions, and lighting system associated with any existing or proposed pedestrian systems related to the park.

(vi) The location and sizes of existing and proposed sewers, water mains, culverts, and other underground structures within the tract.

(vii) Preliminary proposals for connection with existing water supply and sanitary sewer systems.

(viii) The written comments of any applicable utility representatives responsible for reviewing the preliminary plan. These comments shall be submitted to the town planner by the

developer no less than seven (7) calendar days prior to the planning commissions upcoming meeting.

(f) Open space and landscaping information. (i) The location, dimensions, and area of all portions of the park to be set aside for playground, open space or similar uses.

(ii) A preliminary landscape plan, prepared by a landscape architect.

(2) Final mobile home park development plan. After a preliminary mobile home park development plan has been reviewed by the planning commission and obtained preliminary approval subject to certain specific revisions, a revised final mobile home development plan may be submitted for review by the planning commission. Where no subdivision of land is involved, final approval of the mobile home park will be conditioned on whether the proposed park meets all applicable provision of this chapter. Moreover, final approval, necessary for the issuance of a building permit, shall be withheld until the following specific requirements have been met:

(a) All surface water runoff and erosion and sediment control measures have been fully installed to the specifications provided in the drainage plan.

(b) Or, if certain surface water runoff control and erosion and sediment control measures are to be installed while building construction is occurring, a water runoff and erosion and sediment control bond shall be posed at the time of the application for final approval in an amount estimated by the planning commission as sufficient to secure to the Town of Bluff City the satisfactory installation and maintenance of the surface water runoff and erosion control measures.

(c) A bond is posted for landscape completion, maintenance and replacement. (Ord. #97-015, Jan. 1998)

CHAPTER 4

LANDSCAPE ORDINANCE

SECTION

14-401. Short title. This ordinance shall be known as the "Landscape Ordinance for the Town of Bluff City." (Ord. #2000-002, March 2000)

14-402. Intent and purpose. The general intent and purpose of this chapter is to regulate the planting, protection, and maintenance of trees, shrubs, and other landscaping materials in order to:

Enhance the town's environmental and visual character for its citizens' use and enjoyment.

Preserve and/or stabilize the area's ecological balance.

Mitigate the effects of air, water, and noise pollution.

Safeguard property values by promotion high quality development.

Help ensure land use compatibility and lessen the impact of high intensity uses on the community. (Ord. #2000-002, March 2000)

14-403. Definitions and interpretation. "Berm." A mound of soil or man-made raised area used to obstruct views, decrease noise, and/or otherwise act as a buffer between incompatible land uses.

"Buffer." An area within a property or site, generally adjacent to and parallel with the property line, either consisting of natural existing vegetation or created by the use of trees, shrubs, fences, walls, and/or berms, designed to limit continuously the view of and sound from the site to adjacent sites or properties.

"Caliper." The diameter of a tree trunk measured in inches, six (6) inches above ground level for trees up to four (4) inches in diameter and twelve (12) inches above ground level for trees over four (4) inches in diameter. Caliper is a common means of measuring trunk diameter on young trees.

"Canopy." The above ground parts of a tree consisting of branches, stems, buds, and leaves.

"Certificate of occupancy." A document issued by the building inspector which permits the occupancy or use of a building and which certifies that the structure or use has been constructed, arranged, and will be used in compliance with all applicable codes.

"Curb." A stone, concrete, or other improved boundary usually marking the edge of the roadway or paved area.

"DBH." Diameter breast height. The diameter of a tree measured four and one-half (4 ½) feet above ground level. DBH is a common means of measuring the diameter of large trees.

"Deciduous." Plants that drop their foliage annually before becoming dormant.

"Developer." The legal or beneficial owner or owners of a lot or of any land included in a proposed development. Also, the holder of an option or contract to purchase, or any other person having enforceable proprietary interest in such land.

"Development." Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, dredging, drilling operations, excavation, filling, grading, paving, or the removal of healthy trees over six (6) inches dbh.

"Drip line." A vertical line extending from the outer edge of the canopy of a tree to the ground.

"Frontage landscaped area." A landscaped area located at the perimeter of the lot along all abutting public streets.

"Evergreen." A plant with foliage that remains green year-round.

"Hedge." A landscape barrier consisting of a continuous, dense planting of shrubs.

"Impervious surface." A surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water.

"Incompatibility of land uses." An issue arising form the proximity or direct association of contradictory, incongruous, or discordant land uses or activities, including the impacts of noise, vibration, smoke, odors, toxic matter, radiation and similar environmental conditions.

"Interior planting island." An island located within the interior of a parking lot.

"Island." A raised area, usually curbed, placed to protect landscaping.

"Lot." A designated parcel, tract, or area of land established by a plat or otherwise as permitted by law and to be used, developed, or built upon as a unit.

"Maintenance guarantee." Any security which may be required and accepted by the Bluff City Planning commission to ensure that necessary improvements will function as required for a specific period of time.

"Mulch." A layer of wood chips, dry leaves, straw, hay, plastic, or other materials placed on the surface of the soil around plants to retain moisture, prevent weeds from growing, hold the soil in place, or aid plant growth.

"Nursery." Land or greenhouses used to raise flowers, shrubs, and plants for sale.

"Off-street parking." A parking space provided in a parking lot, parking structure, or private driveway.

"Ornamental tree." A deciduous tree planted primarily for its ornamental value or for screening purposes; tends to be smaller at maturity than a shade tree.

"Overhang." The portion of a vehicle extending beyond the wheel stops or curb.

"Performance guarantee." Any security that may be accepted by the Bluff City Planning Commission as a guarantee that the improvements required as art of an application for development are satisfactorily completed.

"Protective screening." A structure or planting consisting of fencing, berms, and/or evergreen trees or shrubs providing a continuous view obstruction within a site or property.

"Setback." The distance between the building and any lot line.

"Shade tree." A tree, usually deciduous, planted primarily for overhead canopy.

"Shrub." A self-supporting woody perennial plant of low to medium height characterized by multiple stems and branches continuous from the base, usually not more than ten (10) feet in height at its maturity.

"Sight distance triangle." A portion of land formed by the intersection of two street right-of-way lines and points along each right-of-way thirty (30) feet from the intersection. Within this triangle nothing shall be erected, placed, planted, or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection. In general, this would mean that a clear view shall be provided between the heights of three (3) and fifteen (15) feet within the sight distance triangle.

"Specimen tree." A particularly impressibe or unusual example of a species due to its size, shade, age, or any other trait that epitomizes the character of the species.

"Street, public." A public right-of-way set aside for public travel which (a) has been accepted for maintenance by the Town of Bluff City; (b) has been

dedicated to and accepted by the Town of Bluff City for public travel by the recording or a street plat or a plat of a subdivision which has been approved by the planning commission.

"Subgrade." The natural ground laying beneath a road.

"Topsoil." The original layer of soil material to a depth of six inches which is usually darker and richer than the subsoil.

"Vision clearance." A condition which is achieved when nothing is erected, places, planted, or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving an intersection. (Ord. #2000-002, March 2000)

14-404. <u>The landscape plan</u>. A generalized landscape plan shall be submitted as part of the site plan review process noted in Section 414 of the Town of Bluff City Zoning Ordinance. At a minimum, the landscape plan shall indicate:

The size, location, number and type of species involved in proposed frontage landscaped areas, landscape islands within parking lots, and screening and buffers.

The distance of plantings to be used for landscaping from intersections (include and highlight the location of all sight distance triangles), utility lines and other potential points of conflict. Each developer shall be responsible for coordinating the location of plantings with the existing and/or proposed location of above and below ground utilities.

The number of parking spaces and/or the square footage of area designated for parking.

The zoning associated with both the proposed development and surrounding properties.

The types of activities conducted on adjacent properties.

The general location of existing trees, shrubs, and ground covers.

Where existing plantings are to be retained and how these plantings will be protected during the construction process. Drawings shall delineate the drip line of trees desired for perservation.

Location and description of other landscape improvements, such as earth berms, walls, fences, and screens.

Planting and installation details as necessary to ensure conformance with all required standards.

Any other information as may be required to assess compliance with this chapter. (Ord. #2000-002, March 2000)

14-405. <u>Protection of existing plantings</u>. Where existing plantings are to be preserved, as noted in the landscape plan, the following protection measures or there performance based equivalents shall apply:

Species intended for preservation shall be clearly delineated in the field. These species should be selected prior to siting the building and paving.
No soil should be placed around trees that are intolerant of fill and are to be saved. Dogwoods, birches, oaks, sugar maples and most conifers are, for example, intolerant to fill because their roots are often near the surface.
Stockpiling of soil resulting from grading shall be located only in open areas. NO material or temporary soil deposits shall be placed within four (4) feet of shrubs or ten (10) feet of trees designated for preservation.

No soil shall be disturbed in a ten (10) foot radius or, if greater, within the drip line of the tree to be preserved.

Barriers used to protect existing plantings shall be self-supporting (i.e. not supported by the plants they are protecting), a minimum of three (3) feet high, and constructed of a durable material that will last until construction is completed.

Should machinery, during the construction process, be required to cross through a protected zone, at least four (4) inches of chip mulch shall be places on the ground to displace the weight of machines and prevent loss of pores in the soil that allow passage of air and water to roots.

After construction, curbing placed around existing trees shall be at least three and one-half (3½) feet from the base of the tree, as measured six (6) inches above the ground or no closer than the halfway point between the drip line and the trunk of the tree, whichever is greater. (Ord. #2000-002, March 2000)

14-406. <u>Standards for accepting existing plantings</u>. Existing plantings will only be accepted as fulfilling the landscaping requirements of this chapter where they:

Are healthy and listed as an acceptable species in the "List of Acceptable Species" maintained by the town planner

Do not and are not likely to interfere with utilities, vision clearance standards, or obscure street lights meet the size, location and other applicable requirements of this chapter. (Ord. #2000-002, March 2000)

14-407. <u>Incentives for preserving specimen trees and existing plantings</u>. To encourage the preservation of a specimen tree or significant wooded area, setback requirements along side and rear property lines may, upon review and approval by the board of zoning appeals , be reduced by as much as twenty-five (25) percent. Also as noted in Section.....,[1] the number and size of required parking spaces may, if approved by the planning commission, be modified to encourage the preservation of existing plantings. (Ord. #2000-002, March 2000)

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[1] This is the way this reference appears in Ord. #2000-002, from which these provisions were taken.

14-408. General landscape design standards. General size specifications. At the time of planting, all required trees shall have a minimum trunk diameter of at least two (2) inches and shall be nursery grown. All required trees shall have a minimum height of six (6) feet when planted. All required shrubs used for buffering shall have a minimum height of two (2) feet when planted and be shall be capable of reaching a height of six (6) feet within three (3) years of planting. Shrubbery used for other landscaping purposes shall be capable of reaching a minimum height of three (3) feet within three (3) years of planting. All shrubbery shall be nursery grown.

Tree types. Tree type may be vary depending on overall effect desired. However, where ten (10) or more new trees are required, a mixture of more than one species shall be provided to create a natural look and guard against the possibility of disease obliterating all required trees. As a rule, trees should be indigenous, relatively fast-growing, not particularly susceptible to insects and disease, long-living and require little care.

General spacing standards. Proper spacing distances depend on the tree type, its growing habits, and whether freestanding specimens or an interlaced canopy is desired. As a general rule, unless a canopied effect is desired, a good guide is to space trees so as to exceed the farthest extent of branch development at maturity. Required shade trees shall generally have a minimum horizontal separation from other required trees of eight (8) feet. In all cases, required trees, whether new or existing, shall be spaced so that they will not interfere with utilities, obstruct vision clearance, or obscure street lights. (Ord. #2000-002, March 2000)

14-409. Prohibited plantings. It shall be unlawful for any person to plant trees as follows:

Within any recorded sewer or water easement: Any species prone to clogging water or sewer lines with roots, including, but not limited to, Poplar, Boxelder, Silver Maple, American Elm, Catalpa, Siberian Elm, Cottonwood, Black Walnut, and Weeping Willow.

Within any recorded easement for overhead electric or telephone line: Any species known to reach a mature height of greater than twenty (20) feet. (Ord. #2000-002, March 2000)

14-410. Buffering. Intent. Buffer yard requirements are designed to provide physical separation and visual screening between adjacent land uses that are not fully compatible, such as duplexes and service stations. Buffering is also necessary to create privacy, soften glare, filter noise, and modify climatic conditions.

Applicability. Buffer yards are required where the development of a new higher impact use, resulting from either a new use of a vacant lot or through a change in ownership or tenancy, abuts an existing lower impact use. Impact use

classifications are discussed below in subsection...[1] In cases where the use classification is uncertain, the planning commission shall make a decision based on the specific situation, character of the use, and the surrounding and/or proposed plan of development. For example, the use of public-owned buildings, which is permitted in all zoning districts, will have very different impacts on abutting properties depending on the nature of the use. As a result, buffering for these these kinds of uses shall be evaluated on the basis of the most similar private sector use and the uses prevalent in the surrounding neighborhood.

Impact Classification

(N) - No Impact: 1. Any use, unless otherwise listed below, which is permitted in a R-1 or R-1A zoning district; 2. Cemetaries; 3. Golf Courses; 4. Parks and similar uses.

(L) - Low Impact: 1. Any use, unless otherwise listed in a lower impact classification, which is permitted in the R-2, or B-1 zoning districts; 2. Community and neighborhood recreational facilities and similar uses.

(M) - Medium Impact: 1. Any use, which is only permitted in the B-3 or B-4 zoning districts; 2. Gasoline service stations; 3. Convenience stores; 4. Parking garages; 5. Auto repair garages and similar uses and 6. Mini-warehouses.

(H) - High Impact: 1. Any use only permitted in the M-1 or M-2 zoning districts and 2. Any proposed development which would create more than five-hundred (500) parking spaces.

Types of Buffering Required for different impact uses:

Proposed Use Classification

Adjoining Use Classification	N	L	M	H
N	None	1	2	3
L	None	None	1	2
M	None	None	None	1
H	None	None	None	None

[1] This is the way this reference appears in Ord. #2000-002, from which these provisions were taken.

Example: A new apartment complex (a Low-Impact use) located in an R-3 zoning district will abut an existing single-family residential (a No-Impact use) area. The developers of the apartment complex, the higher impact use, will be responsible for creating and arranging for maintenance of a Class 1 buffer. However, if this apartment complex were to abut any equal or lower impact use, the developers of the complex would not be responsible for creating any new buffer area.

Classification of Buffer Areas

Class 1:
A Class 1 buffer area is designed for those abutting uses which are only mildly incompatible. For example, an apartment complex abutting a duplex. As a result, the buffer requirements associated with the Class 1 buffer are minimal. One of the following three options would be credited as an acceptable minimum buffer:

Option A:
One (1) row of evergreen trees spaced no greater than eight (8) feet on center. Species which may require different spacing standards may be approved, provided adequate documentation is submitted to justify a variation.

Option B:
One (1) row of evergreen trees spaced no greater than twelve (12) feet on center and a minimum of two (2) shrubs provided per tree.

Option C:
A solid barrier brick or masonry wall or wooden fence or equivalent at least six (6) feet in height. Where a landscaped berm is used and would be periodically mowed, for maintenance purposes, no slope shall exceed twenty-five (25) percent. Berms planted with ground cover and shrubs may be steeper; however, no slope shall exceed fifty (50) percent.

Class 2:
Class 2 buffer areas are designed to provide greater shielding than is provided in the Class 1. Class 2 buffers are for clearly incompatible uses, which, because of noise, lighting, smell, etc. require larger buffers. For example, a proposed convenience store abutting an existing single-family neighborhood would require a Class 2 buffer. The Class 2 buffering requirements could be met by completing, at a minimum, one of the following options:

Option A:
A minimum buffer strip width of ten (10) feet with a row of trees no greater than twelve (12) feet on center and with no less than six (6) shrubs per tree.

Option B:
A minimum six (6) foot high fence, specifically approved by the planning commission, with a row of trees no greater than twelve (12) feet on center and with no less than two (2) shrubs per tree.

Option C:
A minimum buffer strip width of twelve (12) feet with a double row of buffer trees, with a minimum row separation of eight (8) feet, planted a maximum of twelve (12) feet on center.

Class 3:
The Class 3 buffer is designed for abutting uses which are completely incompatible. For example, a new industry which will abut an existing single-family neighborhood would be required to construct a Class 3 buffer along the abutting property line(s). At a minimum, Class 3 buffer requirements could be met by adhering to one (1) of the following options:

Option A:
A buffer strip with a minimum width of twenty-five (25) feet and with no less than three rows of buffer trees with minimum row separation of eight (8) feet and spaced no more than sixteen (16) feet on center.

Option B:
A minimum six (6) foot high fence, specifically approved by the planning commission, with two (2) rows of trees with row separation of not more than eight (8) feet and spaced no less than twelve (12) feet on center. The buffer strip shall be a minimum of twenty (20) feet. (Ord. #2000-002, March 2000)

14-411. Parking lot landscaping. Intent. The purpose of landscaping within and around parking areas is to:

Provide shade for comfort when walking and after returning to the parked vehicle. To help moderate the microclimate on hot days, and buffer winter winds.

Help muffle noise.

Help purify the air by absorbing exhaust gasses and giving off pure oxygen.

Modify the rate of stormwater runoff.

Break up the broad expanse of pavement associated with parking lots and provide a sense of scale that makes people feel more comfortable.

Provide variety instead of monotany.

Help control speed and direct vehicular and pedestrian traffic flow.

Safely separate vehicular traffic from pedestrians.

Enhance property values and business opportunities by providing a pleasant transition from the roadway into the store or business area.

Provide reference points for entrances and exits and help visitors locate parked cars.

And, to minimize the hazard of nighttime glare from headlights.

Applicability. Parking lot landscaping shall be required for all uses which involve the creation of more than ten (10) off-street parking spaces, either as a new use or by expansion. Where parking spaces are not paved and striped, parking lot landscaping shall be provided, as required by this section, for uses which designate more than two-thousand (2000) square feet of the site for parking purposes. "Interior" landscaping shall not be required for parking garages or other enclosed parking structures. Such use, however, shall be buffered as required.

Planting requirements. Where parking lot landscaping is required, one (1) shade tree or two (2) ornamental trees and at least two (2) shrubs per required tree shall be planted for every ten (10) parking spaces or, in the case of existing parking lots which are enlarged, every additional ten (10) spaces. Unmarked lots shall have one (1) shade tree or two (2) ornamental trees and at least two (2) shrubs per required tree for every two-thousand (2000) square feet of area designated or used on a daily basis for parking.

Standards for trees used specifically in parking lot landscaping. Any trees used for parking lot landscaping shall meet all of the following minimum requirements: They shall have a clear trunk of at least six (6) foot above finished grade to provide for maximum vision clearance.

They shall be able to thrive in the existing soil and should be tolerant of excessive heat, de-icing salt, and the oils and other chemicals often found in relatively greater volumes in parking lot environments.

They shall be species with strong wood which is not prone to breakage in wind or ice storms.

They shall be fruitless or otherwise free of parts that fall and could damage vehicles, clog drains, or make pavement slippery.

They shall be free of unacceptable levels of disease or insect pests.

They shall not interfere with either above or below ground utilities.

Where landscaping is desired in a previously developed and paved portion of a site, the pavement cutouts shall be, as verified by the professional responsible for preparing the landscape plan, of sufficient size for tree survival and growth.

Spacing requirements. Trees required for parking lot landscaping may be clustered. However, in no case shall any individual parking space for greater than severnty-five (75) feet from the trunk of a required parking lot tree and no more than one-hundred (100) feet from two (2) or more required parking lot trees. Distances shall be measured in a straight line from the dbh to the nearest portion of the individual parking space. Parking lot landscaping shall not extend more than fifteen (15) feet beyond any area designated or commonly used for parking. And, in no case, shall parking lot landscaping be counted toward fulfilling any other landscaping (e.g. buffering) requirements of this chapter.

Interior planting islands--dimensions. Where interior planting islands are used to meet the requirements of this section, each island shall be no less than five (5) feet wide at its greatest point in any dimension. Where a tree is located within a planting island, there shall be provided at least sixty (60) square feet of pervious land area for each tree within the island. To prevent bumper damage, required trees shall be planted so that the base of the tree, as measured six (6) inches above the ground, shall be at least three and one-half (3 ½) feet behind the curb or traffic barrier. Where an island is parallel to parking spaces, the island shall be at least nine (9) feet wide to allow car doors to swing open. In all cases, to prevent damage to required landscaping, a minimum six (6) inch concrete raised curb or wheelstop shall be required. In addition, curb breaks shall be provided for drainage control into or out of planting islands.

Interior planting islands and parking space dimensions. Where parking spaces abut planting islands or perimeter landscape areas the required length of parking spaces may be reduced by two (2) feet. In fact, general parking space dimensions may be reduced and an area designated for compact vehicles established in order to free up space needed to meet any of the parking lot landscaping requirements of this chapter. (Ord. #2000-002, March 2000)

14-412. Frontage landscape areas. Intent. In addition to parking lot landscaping and buffering requirements, plantings shall also be provided along the public road frontage for those applicable situations noted below in order to:

Better define parking areas

Shield views of parked cars to passing motorists and pedestrians

Create a pleasing, harmonious appearance along the roadway

Promote individual property values and community aesthetics.

Applicability. Any new multi-family, commercial, or industrial development which fronts along the same public right-of-way for at least fifty (50) feet shall be required to plant frontage landscaping along that frontage. Frontage landscaping shall also be required where an existing lot of record is used by an existing multi-family, commercial, or industrial entity and is combined with adjacent property to create at least fifty (50) feet of additional public road frontage. In which case, frontage landscaping shall be required along that additional frontage.

Requirements. Landscaping along any public road frontage shall be within a strip which is at least eight (8) feet wide. This strip shall include at least one (1) shade tree or two (2) ornamental trees for each fifty (50) feet of public street frontage. Required trees may be clustered or spaced in any manner desirable to the developer and owner, provided such spacing does not interfere with utility line locations or vision clearance. Between required trees, additional landscaping in the form of shrubs, berms, brick or masonry walls or other landscaping or combinations of landscaping acceptable to the planning staff and building official shall be provided. This landscaping shall be at least three (3) feet in height or, in the case of plantings, capable of reaching three (3) feet in height within three (3) years and shall be spaced so that no non-landscaped "gaps," excluding driveways and sight lines, exist which are greater than six (6) linear feet. Plantings other than trees must be at least eighteen (18) inches high when planted. A gap greater than six (6) feet may be permitted by the planning staff where a clear safety concern is demonstrated or a more natural look will be conveyed. (Ord. #2000-002, March 2000)

14-413. Completion bond. In order to ensure the acceptable completion of required landscaping, the building inspector may withhold a certificate of occupancy until required plantings are installed per the approved landscape plans. If a certificate of occupancy is desired and it is not an appropriate time of year for planting, a completion bond, irrevocable letter of credit, or similar security measure shall be provided by the developer. If landscaping is not planted according to the approved landscape plan, the town shall retain the right to cash the bond or security measure, after providing written notification to the developer, and complete the landscaping. (Ord. #2000-002, March 2000)

14-414. Maintenance/replacement bond. An amount equal to at least one-hundred ten (110) percent of the projected cost of the landscaping of the approved landscape plan shall be placed by the developer with the town for a period of not less than two (2) years. This bond shall be placed with the town after all landscaping has been satisfactorily completed. If landscaping has died and not been removed and replaced, the town shall retain the right to cash the bond, after providing written notification to the developer, and complete the maintenance, removal and/or replacement. As a general rule, plantings that are required to be planted or those that are preserved shall be removed and replaced with equivalent plantings if such plantings are not living within one (1) year after the issuance of a certificate of occupancy or the release of a completion bond. (Ord. #2000-002, March 2000)

14-415. Continued maintenance requirements. Upon expiration or release of any applicable maintenance and replacement bond, property owners shall remain responsible for maintaining plantings in a healthy and orderly manner. Specifically, this shall mean:

(1) All plant growth in landscaped areas must be controlled by pruning, trimming, or other suitable methods so that plant materials do not interfere with public utilities, restrict pedestrian or vehicular access, or otherwise constitute a traffic hazard;

(2) All planted areas be maintained in a relatively weed-free condition and clear of undergrowth;

(3) All plantings be fertilized and irrigated at intervals as are necessary to promote optimum growth;

(4) All trees, shrubs, ground covers, and other plant materials shall be replaced if they die or become unhealthy because of accidents, drainage problems, disease, or other causes.

Also, where man-made materials are used in lieu of plantings, such materials shall be maintained in good repair, including, where applicable, periodic painting or finishing. Subsequent building permits may be withheld if, after written notification, landscaping, either required or preserved, is not properly maintained. (Ord. #2000-002, March 2000)

14-416. Applicable procedures--new developments. Where landscape plans are required, such plans shall be submitted as part of the site plan review process. These plans, which shall be reviewed by the Town of Bluff City Planning Commission, shall be submitted no later than the last business of the month in order to be included on the commission's agenda. The planning commission will evaluate the plans based on their adherence to the provisions of this chapter. The commission will render an acceptance, denial, or conditional acceptance. Where plans are approved subject to certain conditions, such conditions may be satisfied by working with the planning staff, provided

such conditions are classified as "minor," as described below. (Ord. #2000-002, March 2000)

14-417. Application procedures--expansions of and/or alterations to existing developments. Where a use of property is expanded or changed so as to required landscaping, the applicable provisions of sections, shall apply so that the town is provided with a "security" that the landscaping will be installed and maintained as required in this chapter. Where required landscaping can only be provided in existing paved areas, pavement cut-outs shall be of sufficient size to ensure the survival of the species.

Minor changes to approved or conditionally approved plans. Minor changes made to approved landscape plans shall be first approved by the town planner before any such changes may be made to these original plans. Where such proposed changes would clearly compromise the intent and purpose of this chapter, such changes shall be deemed as "major" and shall be presented to the planning commission for a decision.

Expiration of approved landscape plans. In keeping with site development requirements, work related to an approved landscape plan shall be initiated within one (1) year after formal approval by the planning commission. Where such work is not initiated, the plans shall be re-submitted to the planning commission. (Ord. #2000-002, March 2000)

14-418. Alternative methods of compliance. In cases where a strict interpretation of the requirements of this chapter may be either physically impossible or would create some obvious and unusual hardship, the developer may present to the planning commission an alternative method of compliance. In all cases, such alternative means of complying with the provisions of this chapter shall only be permitted if they are specifically approved by the planning commission. In evaluating the petitioner's request for alternative compliance, the planning commission shall make a determination on the basis of whether one or more of the following conditions would clearly apply:

(1) The development entails obvious space limitations or is located on unusually shaped parcels;

(2) Topography, soil, vegetation, or other site conditions are such that full compliance is impossible or impractical or unnecessary;

(3) Due to a change of use of an existing site, the required bufferyard is larger than can be provided;

(4) Obvious safety considerations are involved.

(5) An alternated plan, as demonstrated by a landscape specialist, would clearly improve environmental quality, traffic safety, and the overall aesthetics of the town to an extent much greater than would be possible by adhering to the provisions of this chapter.

In all cases, if an alternate means of compliance is permitted, such compliance shall approximate the requirements of this chapter to the greatest extent possible. (Ord. #2000-002, March 2000)

14-419. Conflict. If the provisions of this chapter conflict with other ordinances or regulations, the more stringent limitation or requirement shall govern or prevail to the extent of the conflict. (Ord. #2000-002, March 2000)

CHAPTER 5

SIGN ORDINANCE

SECTION

14-501. Purpose and intent. The purpose of this chapter is to create the legal framework to control the erection, location, and maintenance of all exterior signs, billboards, and other advertising structures and devices to insure their safe construction, traffic safety, pedestrian, safety, property values, and the natural beauty of Bluff City. Any sign placed on land or on a building for the purposes of identification or for advertising a use on premises shall be deemed to be accessory and incidental to such land, building or use. It is intended that the signs be appropriate to the land, building or use to which they are accessory, and be adequate, but not excessive, for the intended purpose of identification or advertisement. (Ord. 2000-004, April 2000)

14-502. Minimum standards. The minimum standards set forth in this chapter shall not relieve an owner or tenant of the responsibility for compliance with other local ordinances, codes and regulations. (Ord. 2000-004, April 2000)

14-503. Definitions. (1) "Sign area." The sign area is the area within a single continuous perimeter enclosing the extreme limits of the sign but the sign area shall not include any structural elements not an integral part of the sign.

(2) "Sign height." The height of a sign shall be the maximum vertical distance from the uppermost extremity of a sign or sign support to the average ground level at the base of the sign.

(3) "Business sign." A sign which primarily directs attention to a business or profession conducted on premises.

(4) "Outdoor advertising sign." A sign which conveys some information, knowledge, or idea to the public which is not primarily related to a business or profession on premises.

(5) "Portable signs." Any sign which is or is intended to be affixed or mounted to a frame for the expressed purpose of easy mobility, and is intended ordinarily to be leased for short periods of time for promotional sales, grand openings, etc. Any sign which does not conform to the Southern Building Code, i.e. wind resistance, electrical wiring, etc., shall be considered to be in violation of these regulations. (Ord. 2000-004, April 2000)

14-504. Permit required. (1) No sign, except for those signs listed in section 14-505 below, shall be painted, constructed, erected, remodeled, relocated, or expanded until a sign permit has been obtained in accordance with the provisions of this chapter.

(2) No permit for any sign shall be issued unless the sign complies with all requirements of the chapter, with the requirements of the Southern Standard Building Code as amended for sign and outdoor displays. (Ord. 2000-004, April 2000)

14-505. Permit exceptions. (1) The following operations shall not be considered as creating a sign and therefore shall not require a sign permit.

(a) The changing of the advertised copy of message on an approved sign or billboard which are specifically designed for the use of replaceable copy.

(b) Painting, cleaning and other normal maintenance and repair of a conforming sign unless a structural change is made.

(2) The following enumerated signs shall be exempt from the requirements of this chapter:

(a) Signs of any constituted governmental body such as traffic signs and signals, legal notices, railroad crossing signs, danger signs, and other temporary emergency, and nonadvertising signs.

(b) Memorial tablets or signs, historic markers, corner stones, or a building name and date of erection when constructed of incombustible material.

(c) Signs required to be maintained by law such as governmental order, rule, or regulation with a total surface area not to exceed ten (10) square feet.

(d) Flags, emblems, or insignias of any constructed governmental body, religious groups, civic organizations and service clubs.

(e) Small signs displayed for the direction or convenience of the public including signs which identify restrooms, location of public telephones, freight entrances, parking or the like with a total area not to

exceed four (4) square fee. Horizontal directional signs flush with paved areas are exempt from these standards.

(f) Seasonal displays and decorations not advertising a product, services, or entertainment.

(g) Freestanding signs or signs attached to fences at approximate eye level that are not larger than four (4) square feet warning the public against hunting, fishing, trespassing, dangerous animals, swimming, etc.

(h) Any information or directional signs erected by a public agency to give directions and distances to commercial facilities or points of interest for the convenience of the traveling public but the signs may not give direction to any specific business establishment.

(3) Except where specifically qualified below, no permit shall be required for any of the following temporary signs:

(a) Official notices or advertisement, required by the direction of any public or court officer in the performance of his official or directed duties or by trustees under deeds of trust, deeds of assignment or other similar instruments; provided, that all such signs shall be removed not later than ten (10) days after the last day of the period for which they are required to be displayed.

(b) Political campaign signs not exceeding four (4) square feet in all other zones may be erected. Each sign may not be erected more than ninety (90) days prior to the nomination, election, or referendum which it advertises, and shall be removed within seven (7) days after the announced results of that nomination, election or referendum.

(c) Temporary signs not exceeding sixteen (16) square feet in area announcing a campaign, drive or event of a civic, philanthropic, education or religious organization, provided, that the sponsoring organization shall insure proper and prompt removal of such sign. Such sign may be maintained for a period not to exceed one (1) month.

(d) Real estate signs, up to total area of nine (9) square feet, advertising the sale, rental or lease of the premises or part of the premises on which the signs are displayed. Such signs shall be removed within three (3) days of the sale, rental or lease.

(e) Construction signs which identify the architects, engineers, contractors and other individuals or firms involved with the construction, but not including any advertisement of any product, and signs announcing the character of the building enterprise or the purpose for which the building is intended, during the construction prior, to a maximum area of thirty-two (32) square feet for each sign. The sign shall be confined to the site of the construction and shall be removed within fourteen (14) days following completion of construction.

(f) Temporary or portable signs not exceeding thirty-five (35) square feet announcing such happenings as "Grand Opening," "Under

New Management," or "Going Out of Business," subject to the following conditions:

(i) For a period not to exceed thirty (30) days.

(ii) On a given property, such a temporary sign may be displayed only one (1) time in a twelve (12) month period. (Ord. 2000-004, April 2000)

14-506. Prohibited signs. The following signs are prohibited in any zoning district and in any area of the Town of Bluff City.

(1) Any lighting arrangement by exposed tubing or strings of lights, outlining any portion of a building or structure or affixed to any ornamental feature thereof.

(2) Any portable sign, except as provided for in section 14-505(3)(f).

(3) Any sign that violates any provision of any law or regulation of the State of Tennessee or United States relative to outdoor advertising.

(4) Any sign that violates any provision of the southern Standard Building Code.

(5) Any sign so located so as to obscure all or any portion of a sign or traffic signal erected by a governmental authority.

(6) Any sign of which all or any part is in motion by means of the atmosphere, including fluttering, or rotating.

(7) Any sign displaying flashing or intermittent lights, or lights of changing degrees of intensity of color, except signs indicating time, temperature, barometric pressure, air pollution index or THI but only when the sign does not constitute a public safety or traffic hazard in the judgment of the building inspector.

(8) Any sign that obstructs any window, door, fire escape, stairway, ladder, opening or access, intended for light, air, ingress to or egress from any building.

(9) Any sign that is attached to a tree.

(10) Any sign that is attached to a utility pole, whether on public or private property, except utility warning announcements.

(11) Any sign, which by reason of its location, position, size, shape or color may obstruct impair, obscure, interfere with the view of, or be confused with, any traffic control sign, signal or device, or where it may interfere with, mislead or confuse traffic. To those ends, no sign shall use the words "Stop," "Slow," "Caution," "Yield," "Danger," "Warning," or "Go" when such sign may be confused with a traffic control sign used or displayed by a public authority. (Ord. 2000-004, April 2000)

14-507. Structural requirements. All signs shall meet the structural requirements for same as set forth in the Southern Standard Building Code. (Ord. 2000-004, April 2000)

14-508. Inspection, maintenance and removal. (1) Signs for which a permit is required shall be inspected annually by the building inspector for compliance with this chapter and other ordinances of Bluff City.

(2) All signs and components thereof shall be kept in good repair and in a safe, clean, neat and attractive conditions.

(3) When any sign becomes insecure, in danger of falling, or otherwise unsafe, or if any sign shall be unlawfully installed, erected or maintained in violation of any provisions of the Southern Standard Building Code, the owner, person or firm maintaining the sign shall, upon written notice of the building inspector, shall within not more than ten (10) days make such sign conform to the provisions of this chapter or shall remove it. If within ten (10) days the order is not complied with the building inspector may remove such sign at the expense of the owner or lessee thereof as provided in the Southern Standard Building Code.

(4) The building inspector may remove a sign immediately and without written notice if in his opinion, the condition of the sign is such as to present an immediate threat to the safety of the public.

(5) A sign shall be removed by the owner or lessee of the premises upon which the sign is located when the business which it advertises is no longer conducted on the premises and has not been so conducted for a period of one (1) year. If the owner or lessee fails to remove it, the building inspector shall give the owner fifteen (15) days written notice to remove it. Upon failure to comply with this notice, the building inspector may remove the sign at the expense of the owner or lessee thereof as provided in the Southern Standard Building Code. (Ord. 2000-004, April 2000)

14-509. Outdoor advertising signs. Outdoor advertising signs, also commonly referred to as billboards or poster panels, which advertise products or business primarily not connected with the site of building on which they are located, shall be allowed as follows:

(1) Outdoor advertising signs may be located in b-3, B-4 and M-1 districts only.

(2) Outdoor advertising sign shall be subject to the same minimum yard requirements as set forth for the zoning district in which they are located, and shall not be located within 100 feet of any residential district. Outdoor advertising signs shall not be within twenty-five (25) feet of any other sign or building.

(3) Outdoor advertising signs shall be located so as to be primarily visible from arterial streets, and shall not be located along or be primarily visible from any other street.

(4) Outdoor advertising signs may be single face or double face, but no structure may contain more than two (2) signs not exceeding a total area of 288 square feet per facing. (Ord. 2000-004, April 2000)

14-510. Nonconforming signs. (1) Signs which do not conform to the regulations and restrictions prescribed for the zoning district in which they are situated, but which were erected in accordance with all applicable regulations in effect at the time of their erection may remain erected only as long s the then existing use which they advertise or identify remains.

(2) No nonconforming sign shall be enlarged, reconstructed, structurally altered or changed in any manner, nor shall it be worded so s to advertise or identify any use other than that in effect at the time it became a nonconforming sign except that the advertising copy on a nonconforming outdoor advertising sign may be changed.

(3) No nonconforming sign shall be moved on the same lot nor to another lot unless the moving will relocate the sign into a zoning district or any area in which it would conform.

(4) When a nonconforming sign ceases to be lawful, the sign shall be subject to removal under provisions of section 14-508. Portable signs in place and in use at the time of the adoption of this ordinance shall be given a six month grace period except those portable signs deemed by the building inspector to be a public hazard.

(5) If a nonconforming use ceases to be a lawful nonconforming use under Tennessee Law or Bluff City Zoning Ordinance then the sign which advertises or identifies it shall also become an unlawful sign and the provisions of section 14-508 shall be applicable. (Ord. 2000-004, April 2000)

14-511. Sign regulations by district. The following regulations shall apply to all signs which require a permit by the provisions of this section.

The regulations as set forth shall be qualified by those additional provisions which may be presented elsewhere in this chapter for particular uses.

(1) Residential district. In addition to regulations which may be presented for a given use in a particular zoning district, the following regulations shall apply to all signs which are located on unused lands or are accessory to residential uses in all residential districts.

(a) One (1) sign not exceeding four (4) square feet in area shall be permitted for each dwelling unit. Such sign shall indicate only the name of the occupant, address, or home occupation.

(b) In addition to the signs permitted by paragraph 1 above, a twenty (20) square foot sign may be permitted to identify the name of a single family development at the major entrance thereto.

(c) One sign not exceeding thirty-six (36) square feet in area, advertising a subdivision development and located therein adjacent to any street bonding such development may be permitted, provided that no such sign shall be displayed for a longer time than two (2) years and shall require a permit from the building inspector. One (1) off-site sign not exceeding twenty-five (25) square feet may be permitted subject to the same limitations.

(d) Permitted signs may be located anywhere on the premises beyond the five (5) foot setback.

(e) All building mounted signs shall be flush against the building and shall not project above the roof line.

(f) No freestanding sign shall extend more than twelve (12) feet above the ground including any part of the supporting members.

(g) Illumination, if used, shall be what is known as white and not colored light, and shall not be blinking, fluctuating, or moving. Light rays shall shine only on the sign or upon the property where the sign is located and shall not spill over the property line in any direction except by indirect reflection.

(h) Multi-family dwellings may have one (1) or more signs per building with a total permitted sign area of twelve (12) square feet per building which shall indicate only the name and address of the building. In addition, one, thirty (30) square foot sign may be permitted for each street frontage to identify the name, address, phone number and owner of the development.

(i) One sign not exceeding sixteen square feet in area shall be allowed for each public owned buildings and uses, public and private schools and churches located in a residential zone. In addition, one off-site sign shall be allowed on the arterial street nearest the use for which the sign is designed. This sign shall not exceed thirty (30) square feet and shall meet all other requirements of this chapter.

(2) Commercial districts. In addition to the regulations which may be presented for a given use in a particular zoning district, the following regulations shall apply to all signs which are accessory to commercial uses located in any commercial district.

(a) Building mounted signs on buildings housing only one tenant shall not exceed thirty-six (36) square feet of area on the building for the first 100 linear feet of building frontage plus one (1) square foot of sign area for each linear foot over 100 linear feet of building frontage. No such sign, however, shall exceed 100 square feet in area.

(b) Building mounted sign on buildings housing more than one (1) tenant shall not exceed a total of one (1) square foot of sign area on the building of each linear foot of building frontage occupied by each tenant, to a maximum sign area of 100 square feet.

(c) Building mounted signs may be located anywhere on the surface of the building and may project nor more than three (3) feet therefrom.

(d) No building mounted sign shall extend more than four (4) feet above the lowest point of the roof, except that where there is a structural or functional part of the building extending above the roof, such as a parapet, chimney, mullion, mansard or other such architectural embellishment, signs may be placed on but limited to the race of that part

and extend not more than five (5) feet above the highest point of the roof; but in no even shall a sign extend above the height limit established for the zoning district in which a sign is located.

(e) Signs may be on the vertical face of a marquee but shall not project below the lower edge of the marquee. The bottom of the marquee sign shall be no less than ten (10) feet above a walkway or grade at any point. No part of the sign shall extend above the vertical marquee face, and no such sign shall exceed seven (7) feet in height.

(f) Freestanding signs shall not exceed fifty (50) square feet for the first 100 linear feet of street frontage plus one (1) square foot of sign area for each linear foot over 100 linear feet of street frontage not to exceed a maximum of two hundred (200) square feet. Freestanding sign shall e set back a minimum of five (5) feet from all property lines and shall not exceed a height of twenty-six (26) feet above ground level including supports.

(g) All signs shall have a minimum clearance of nine (9) feet above a walkway and fifteen (15) feet above a driveway or alley.

(h) Signs shall be limited to identifying or advertising the property, the individual enterprises, the products, services, or the entertainment available on the same property where the sign is located.

(i) One building mounted sign per street frontage per tenant is permitted. One freestanding sign per street frontage per building is permitted. These signs must be located on the premises for the products or services they primarily advertise or they shall be subject to Section 107 (outdoor advertising signs).

(j) Service stations may be allowed one (1) additional square foot of sign on each gasoline pump to identify the specific product dispensed.

(3) Manufacturing district. In addition to regulations which may be presented for a given use in a particular zoning district, the following regulations shall apply to all property developed for industrial uses in areas zoned for manufacturing.

(a) Building mounted signs shall not exceed a total area of two (2) square feet for each linear foot of building frontage to a maximum total area of all signs permitted for any establishment of 300 square feet. Where the frontage is on more than one street, only the sign area computed with the frontage of that street shall face that street.

(b) Signs may be flat against the wall and located anywhere on the surface of the building. Signs may be projecting signs only if they do not create any safety hazards.

(c) All signs shall have a minimum clearance of nine (9) feet above a walkway and fifteen (15) feet above a driveway or alley.

(d) No building mounted sign shall extend more than four (4) feet above the lowest point of the roof; except where there is a structural

or functional part of the building extending above the roof, such as a parapet, chimney, mullion, mansard or other such architectural embellishment, signs may be placed on and limited to the face of that part and extend not more than five (5) feet above the highest point of the roof; but in no event shall a sign extend above the height limit established for the zoning district in which a sign is located.

(e) One (1) freestanding or ground-supported sign may be erected for each industrial use. Such sign shall have a maximum area of 175 square feet, have a minimum setback of five (5) feet, and not exceed twenty-six (26) feet in height including any supports.

(f) Signs allowed by this section shall be limited to identifying or advertising the property, the individual enterprises, the products, services, or entertainment available on the same property where the sign is located. (Ord. 2000-004, April 2000)

14-512. Administration. (1) Permit requirements.

(a) Except as otherwise provided herein, no sign shall be erected, altered, or relocated without a permit issued by the building inspector.

(b) Any sign erected under permit shall indicate in the lower right hand corner the number of that permit; and the name of the person, firm or corporation owning, erecting, maintaining or operating such sign.

(2) Permit application. The application for a sign permit shall be filed with the building inspector on forms furnished by the town. The application shall contain the location of the sign structure, the name and address of the sign owner and drawings showing the design of the sign and such other pertinent information as the building inspector may require to insure compliance with the ordinance of the town. Any sign located within the Town of Bluff City shall be in conformity with the uses existing in the neighborhood where it is proposed to be located. The Bluff City Planning Commission shall determine any questions concerning the conformity of a sign.

(3) Fee for sign permits. (a) For all signs valued at greater than $100.00 - The fee shall be $25.00

(b) Outdoor advertising structures - $75.00 per new sign, and $50.00 annual renewal fee.

(c) Portable signs - $25.00 per sign per year.

It shall be the responsibility of the company, firm, or individual constructing or planning any sign to obtain any required permit.

(4) Nullification. (a) A sign permit shall become null and void if the work for which the permit was issued has not begun within a period of six (6) months after the date of the permit.

(b) In the event that construction cannot be commenced within the six (6) month period, an application for extension of an additional six (6) month period may be made to the building inspector.

(5) Variances. (a) Except for instances relating to signs or sign structure location or proposed to be located on or over public property, any person who has been ordered by the building inspector to incur and expense for the alteration or removal of a sign may appeal to the board of zoning appeals. The board of zoning appeals may permit the alteration or permit the sign to remain, provided it finds that the sign is safe, necessary to the occupation which it represents, and does not conflict with the intent of the ordinance.

(b) In cases where an individual enterprise located within a shopping center would be so situated as not to have frontage visible from a street the board of zoning appeals may grant sign area for such uses to be erected at entrances. In granting such a variance the board of zoning appeals shall limit the area of such signs to that which in its opinion is reasonably in keeping with the provision of this chapter.

(c) The board of zoning appeals shall hear and decide appeals where it is alleged by the permit applicant that there is an error in any permit, decision, determination, or refusal made by the building inspector or other administrative official in carrying out or enforcing any provision of this chapter.

(d) The board of zoning appeals shall hear and decide applications for variance by reasons of exceptional topographical conditions, practical difficulties, or undue hardships caused by the strict application of the ordinance for additional signs, sign area, sign height and sign location.

(6) Penalties. Any person violating any provision of this chapter shall be guilty of a misdemeanor, and upon conviction shall be fined not more than fifty dollars ($50.00) for each offense. Each day such violation shall continue shall constitute a separate offense. (Ord. 2000-004, April 2000)

CHAPTER 6

STORMWATER MANAGEMENT ORDINANCE

SECTION

14-601. Short title. This chapter shall be known as the "Stormwater Management Ordinance of the Town of Bluff City, Tennessee." (as added by Ord. #2003-001, May 2003, and replaced by Ord. #2008-001, Jan. 2008, and Ord. #2012-016, Oct. 2012)

14-602. Purpose. (1) The purpose of this ordinance is to conserve the land, water and other natural resources of the Town of Bluff City, and promote the public health and welfare of the people by establishing requirements for the management of stormwater and by establishing procedures whereby these requirements shall be administered and enforced; and to diminish threats to public safety from degrading water quality caused by soil erosion and sediment runoff, the runoff of excessive stormwaters and associated pollutants; reduce the discharge of pollutants to the town's stormwater system, and to reduce flooding and the hydraulic overloading of the town's stormwater system; and to reduce the economic loss to individuals and the community at large.

(2) The Town of Bluff City is required by federal law, particularly 33 U.S.C. 1342(p) and 40 CFR 122.26, to obtain a National Pollutant Discharge Elimination System (NPDES) permit through the Tennessee Department of Environment and Conservation (TDEC) to reduce stormwater flows and associated pollutants discharged into waterways through Bluff City's stormwater system and drainage ways. The NPDES permit requires the town to impose controls on future and existing development necessary to reduce the discharge of pollutants in stormwater to the maximum reasonable extent using management practices, control techniques and system design and engineering methods, and such other provisions which are determined to be appropriate for the control of such pollutants.

(3) Allow the Town of Bluff City 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:

(a) 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;

(b) Adopt any rules and regulations deemed necessary to accomplish the purposes of this statute, including adoption of a system of fees for services and permits;

(c) Establish standards to regulate the quantity of stormwater discharged and to regulate stormwater contaminants as may be necessary to protect water quality;

(d) Review and approve plans and plats, where appropriate, for stormwater management in proposed subdivisions and other developments;

(e) Issue permits for stormwater discharges, or for the construction, alteration, extension, or repair of stormwater facilities;

(f) Suspends or revoke permits when it is determined that the permittee has violated any applicable ordinance, resolution, or condition of the permit;

(g) Regulate and prohibit discharges of stormwater into facilities of sanitary, industrial, or commercial sewage or waters that have otherwise been contaminated;

(h) Expend funds to remediate or mitigate the detrimental effects of contaminated land or other sources of stormwater contamination whether public or private.

(4) The entity, person, or department designated by the Town of Bluff City Board of Mayor and Aldermen as stormwater coordinator shall administer the provisions of this ordinance. (as added by Ord. #2003-001, May 2003, and replaced by Ord. #2008-001, Jan. 2008)

14-603. Definitions. For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

(1) "Accidental discharge" means a discharge prohibited by this chapter which occurs by chance and without planning or thought prior to occurrence.

(2) "Adequacy of outfalls." The capacity of the receiving channel, stream, waterway, storm drain system, etc., and a determination whether it is adequately sized to receive runoff from the developed site so as to not cause erosion and/or flooding.

(3) "Best Management Practices (BMPs)." Schedules of activities, prohibitions of practices, maintenance procedures, water quality management facilities, structural controls and other management practices designed to prevent or reduce the pollution of waters of the United States. Water quality BMPs may include structural or non-structural practices.

(4) "Channel." A natural or man-made watercourse with a defined bottom and banks to confine and convey continuously or periodically flowing stormwater.

(5) "Clean Water Act" means the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

(6) "Construction activity" means activities subject to the Town of Bluff City Stormwater Erosion and Sediment Control Ordinance or NPDES general

construction permits. These include construction projects resulting in land disturbance. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

(7) "Covenants for maintenance of stormwater facilities and best management practices." A legal document executed by the property owner, or a homeowners' association as owner of record, and recorded with the register of deeds in the Sullivan County, Tennessee Courthouse which guarantees maintenance of water quality management facilities and best management practices.

(8) "Development." Any land change that alters the hydrologic or hydraulic conditions of any property, often referred to as "site development." Development includes, but is not limited to, providing access to a site, clearing of vegetation, grading, earth moving, providing utilities, roads and other services such as parking facilities, water quality management facilities and erosion control systems, potable water and wastewater systems, altering land forms, or construction or demolition of a structure on the land.

(9) "Development plan." Detailed engineering or architectural drawing(s) showing existing site conditions and proposed improvements with sufficient detail for town review, approval, and then subsequent construction. The contents of a development plan are further defined by the town zoning ordinance, subdivision regulations, and other town departmental standards for constructing developments and public works projects.

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

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

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

(13) "Drainage ways and local waters." Any and all streams, creeks, branches, ponds, reservoirs, springs, wetlands, wells, drainage ways and wet weather ditches, or other bodies of surface or subsurface water, natural or artificial including Bluff City's stormwater system; lying within or forming a part of the boundaries of the Town of Bluff City, or the areas under the regulatory responsibility of the Bluff City Planning Commission that are adjacent to or intended to be served by the Bluff City Sewer System.

(14) "Enforcement officer." The stormwater coordinator or any other person designated by the Bluff City Board of Mayor and Aldermen, such s a Town of Bluff City Police Officer, to enforce the stormwater management ordinance.

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

(16) "Exceptional and historical trees." Those trees or stands of trees that are exceptional representatives of their species in terms of size, age, or unusual botanical quality, or which are associated with historical events.

(17) "Existing stormwater facility." Any existing structural feature that conveys, slows, filters, or infiltrates runoff after a rainfall event.

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

(19) "Hot spots" means sites, developments, or uses that have the potential of discharging pollutants or concentrations of pollutants that are not normally found in stormwater. These sites could include concrete and asphalt facilities, auto repair, auto supply, and large commercial parking lots.

(20) "Illicit discharge" means any direct or indirect non-stormwater discharge to the Town of Bluff City storm drain system, except as exempted in § 14-635 of this chapter.

(21) "Illegal connection" means either of the following:

(a) Any pipe, open channel, drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the storm drain system including but not limited to any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether such pipe, open channel, drain or conveyance has been previously allowed, permitted, or approved by an authorized enforcement agency; or

(b) Any pipe, open channel, drain or conveyance from a commercial or industrial use connected to the Town of Bluff City storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

(22) "Impervious surface." A surface comprised of material(s) that prohibits or severely restricts the infiltration of stormwater into the underlying soil such as, but not limited to, asphalt, buildings, concrete, and brick. Compacted stone/gravel such as found in parking and drive areas is considered impervious.

(23) "Industrial activity" means activities subject to NPDES industrial permits.

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

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

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

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

(25) "Lake." An inland body of standing water, usually of considerable size.

(26) "National Pollutant Discharge Elimination System (NPDES) stormwater discharge permit" means a permit issued by the State of Tennessee that authorizes the discharge of pollutants to water of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

(27) "Non-stormwater discharge" means any discharge to the storm drain system that is not composed entirely of stormwater.

(28) "Owner" or "property owner." The legal owner of the property as recorded with the Sullivan County Register of Deeds.

(29) "Person" means, except to the extent exempted from this chapter, any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, city, county or other political subdivision of the state, any interstate body of any other legal entity.

(30) "Pollutant" means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; petroleum hydrocarbons; automotive fluids; cooking grease; detergents (biodegradable or otherwise); degreasers; cleaning chemicals; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects and accumulations, so that the same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; liquid and solid wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from construction a building or structure; concrete and cement; and noxious or offense matter of any kind.

(31) "Pollution" means the contamination or other alteration of any water's physical, chemical or biological properties by the addition of any constituent and includes but is not limited to, a change in temperature, taste, color, turbidity, or odor of such water, or the discharge of any liquid, gaseous, solid, radioactive, or other substance into any such waters as will or is likely to create a nuisance or render such water harmful, detrimental or injurious to the public health, safety, welfare, or environment, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life.

(32) "Pond." An inland body of standing water that is usually smaller than a lake.

(33) "Premises." means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

(34) "Redevelopment." The improvement of a lot(s) or parcel of land that is improved with existing structures. If the existing impervious areas including but not limited to buildings and parking remain as is, then the water quality portion of this ordinance only applies to the newly constructed structures and disturbed areas. If the existing impervious areas are removed and the soil underneath disturbed and then replaced with new impervious areas or newly graded areas then the water quality portion of this ordinance applies to the entire disturbed area. Areas or uses designated as "hotspots" that are redeveloped must provide water quality improvements for not only the new impervious and graded areas but also the existing impervious areas that remain.

(35) "Sediment." Solid material, either mineral or organic, that is in suspension, is being transported, or has been moved from its site of origin by erosion.

(36) "State waters" means any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface and subsurface water, natural or artificial, lying within or forming a part of the boundaries of the State of Tennessee which are not entirely confined and retained completely upon the property of a single person.

(37) "Stormwater coordinator" means the person, or their designee in their absence, designated by the board of mayor and aldermen to enforce the stormwater regulations.

(38) "Stormwater management facility." Term is used in a general sense to mean retention ponds, detention ponds, sedimentation basins, sediment traps, and any other structure that is constructed to reduce or control stormwater runoff and prevent silt and other pollutants from entering the town's waterways. When terms such as sediment basins and detention ponds are used in this ordinance, they are also intended to describe a variety of possible structures whose applications in certain circumstances helps control stormwater and waterway pollutants.

(39) "Stormwater runoff" or "stormwater" means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation.

(40) "Stormwater plan." For the purpose of this chapter; a stormwater plan refers to a formal written document and/or drawing addressing grading, stabilization using vegetation, stormwater conveyance, stormwater management, and erosion and sediment controls, that is reviewed by the stormwater coordinator with possible other technical assistance as deemed necessary, reviewed by the Town of Bluff City Planning Commission, and if approved by the planning commission is used as the basis for the stormwater

coordinator to issue a grading permit that allows land disturbing activity to proceed.

(41) "Stormwater Pollution Prevention Plan (SWPPP)." This is a combination of the erosion and sediment control plan and a narrative in accordance with the Tennessee Department of Environment and Conservation Standards.

(42) "Stream." For the specific purpose of vegetated buffers, a stream is defined as a linear surface water conveyance that can be characterized with either perennial or ephemeral base flow and is regulated by the town as a Special Flood Hazard Area (SFHA) or has been identified by the United States Army Corps of Engineers or the Tennessee Department of Environment and Conservation as a stream.

(43) "Structure." For the purpose of this ordinance, anything constructed or erected such that the use of it requires a more or less permanent location on or in the ground. Such construction includes, but is not limited to, objects such as buildings, houses, towers, overhead transmission lines, carports, garages, walls, parking areas, driveways, roads, and sidewalks.

(44) "Total Maximum Daily Load (TMDL)." a TMDL is a calculation of the maximum amount of a pollutant that a water body can receive and still meet water quality standards, and an allocation of that amount to the source(s) of the pollutant.

(45) "Town of Bluff City Storm Drain System" means any publicly owned or operated facility designed or used for collecting and/or conveying stormwater including, but not limited to, any roads and streets with drainage systems, curbs, gutters, inlets, catch basins, storm drains, structural and non-structural stormwater controls, stormwater management devices such as detention ponds, ditches, swales, natural and man-made or altered drainage channels, streams, creeks, rivers, reservoirs, and other drainage structures.

(46) "Transporting." Any moving of earth materials from one place to another, other than such movement incidental to grading, as authorized on an approved plan.

(47) "Vegetated buffer." A use-restricted vegetative area that is located along the perimeter of streams, ponds, or wetlands, containing natural vegetation and/or enhanced or restored vegetation.

(48) "Water course" means any structural or non-structural stormwater conveyance device including, but not limited to, storm drains, ditches, swales, channels, creeks, streams, rivers, and lakes.

(49) "Water quality BMP manual." A document which contains policies, design standards and criteria, technical specifications and guidelines, maintenance guidelines, and other supporting documentation to be used as the policies and technical guidance for implementation of the provisions of this ordinance. The manual to be used shall be the Town of Bluff City's manual, if developed, or if it has not been developed then the Northeast Tennessee Water Quality BMP Manual, latest edition, shall be used.

(50) "Water quality management facilities." Structural and non-structural features designed to prevent or reduce the discharge of pollution in stormwater runoff from a development or redevelopment.

(51) "Water quality management plan." An engineering plan for the design of water quality management facilities and best management practices within a proposed development or redevelopment. The water quality management plan includes a plan showing the extent of the land development activity, water quality management facilities, BMPs, vegetated buffers, water quality volume reduction areas, design calculations for water quality management facilities and BMPs, and may contain record drawings/certifications and covenants for maintenance of stormwater facilities and best management practices along with easements for the water quality management facilities, BMPs, vegetated buffers, water quality volume reduction areas.

(52) "Water quality volume reduction." A decrease in the water quality volume for one (1) or more areas of a proposed development which is obtained only for specific site development features or approaches that can reduce or eliminate the discharge of pollutants in stormwater runoff. Water quality volume reductions can only be obtained when specific guidelines presented in the water quality BMP manual are met.

(53) "Water quality volume reduction areas." Areas within the proposed development or redevelopment for which a water quality volume reduction can be obtained.

(54) "Wetland." An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetland determination shall be made by the United States Army Corps of Engineers, and/or the Tennessee Department of Environment and Conservation. (as added by Ord. #2003-001, May 2003, and replaced by Ord. #2008-001, Jan. 2008, and Ord. #2012-016, Oct. 2012)

14-604. Regulated land disturbing activities. (1) Except as provided in subsections (2) and (3) of this section, it shall be unlawful for any person to engage in any land disturbing activity on any commercial development, on any multi-family development, or any single-family development, construction, or renovation activity involving at least one (1) acre of land disturbance, construction activity that is part of a larger common development or sale that would disturb at least one (1) acre of land, or three (3) lots or more without submitting and obtaining approval of a stormwater plan as detailed in §§ 14-606 through 14-609 of this chapter, and being issued a grading permit by the stormwater coordinator.

(2) Any person who owns, occupies and operates private agriculture or forest lands shall not be deemed to be in violation of this ordinance of land

disturbing activities which result from the normal functioning of these lands, however, the stormwater coordinator has the authority to require "best practices" erosion and sedimentation control measures if pollution and runoff problems are evident.

(3) Any state or federal agency not under the regulatory authority of the Town of Bluff City for stormwater management and erosion and sediment control. (as added by Ord. #2003-001, May 2003, and replaced by Ord. #2008-001, Jan. 2008, and Ord. #2012-016, Oct. 2012)

14-605. Permit required for any land disturbing activity. Any land disturbing activity, as defined, shall require a grading permit, in addition to any building permit, which must be issued by the stormwater coordinator prior to the commencement of any work. Grading permits for regulated land disturbing activities as defined in § 14-604 will be issued by the stormwater coordinator only upon the developer meeting requirements outlined in §§ 14-606 through 14-609 of this chapter which includes obtaining approval of a stormwater plan by the Bluff City Planning Commission.

A grading permit is also required for any development or construction activity on less than one (1) acre of land. However, said development and construction activities do not require a formal stormwater plan unless they are commercial or multi-family developments or a stormwater plan is specifically requested by the planning commission. (as added by Ord. #2003-001, May 2003, and replaced by Ord. #2008-001, Jan. 2008, and Ord. #2012-016, Oct. 2012)

14-606. Stormwater plan required. A stormwater plan shall be required for all developments, subdivisions, or construction activities involving one (1) or more acres, of land disturbance, construction activity that is part of a larger common development or sale that would disturb at least one (1) acre of land, or three (3) lots or more, except as exempted in § 14-604 (2) and (3). A stormwater plan shall be required for all commercial construction or renovation, or any multi-family residential facility regardless of the acreage or number of units. If necessary to protect the health and safety of the people, the planning commission may, at its discretion, require a stormwater plan for any development or renovation under an acre, or single-family subdivision with less than three (3) lots. (as added by Ord. #2003-001, May 2003, and replaced by Ord. #2008-001, Jan. 2008, and Ord. #2012-016, Oct. 2012)

14-607. Stormwater plan requirements. The stormwater plan shall be prepared and designed by a registered design professional qualified to prepare stormwater plans in accordance with State of Tennessee law and in accordance with the current State of Tennessee Construction General Permit, where applicable. The length and complexity of the plan is to be commensurate with the size of the project, severity of the site condition, and the potential for off-site damage. The plan shall include at least the following:

For projects which require a construction general permit through the State of Tennessee, the SWPPP (plan and narrative) shall be prepared by a person in accordance with the current State of Tennessee Construction General Permit and submitted to the town. The SWPPP shall contain all required information as required by the current State of Tennessee Construction General Permit. Be aware that the requirements for projects which drain into an impaired stream or exceptional waters of the state are different than for projects draining to an unimpaired stream.

(1) Project description. Briefly describe the intended project and proposed land disturbing activity including number of units and structures to be constructed and infrastructure required.

(2) Contour intervals of five feet (5') or less showing present conditions and proposed contours resulting from land disturbing activity.

(3) All existing drainage ways, including intermittent and wet-weather. Include any designated floodways or flood plans.

(4) A general description of existing land cover; individual trees and shrubs do not need to be identified.

(5) Limit of disturbance showing approximate limits of proposed clearing, grading and filling.

(6) Drainage area map showing pre and post development stormwater leaving any portion of the site.

(7) A general description of existing soil types and characteristics and any anticipated soil erosion and sedimentation problems resulting from existing characteristics.

(8) Location, size, details, and layout of proposed stormwater management improvements. Provide appropriate details such as a profile through the principal spillway with cut-off trench, anti-seep control, trash rack details, compaction/backfill details or notes, riser detail, outlet stabilization, and emergency spillway detail for detention ponds and other details/sections as needed for the contractor to build the structures.

Any opening in a riser structure and its overflow shall have a trash rack to prevent the openings, the riser, and/or the principal spillway from becoming clogged. The trash racks shall not be flat across the openings.

Provide hydraulic calculations sealed by a registered professional engineer for stormwater facilities. As a minimum, the calculations shall include a pre and post development drainage area map, brief narrative, pre and post development runoff data, and routing calculations to determine the outflow rate.

(9) Proposed closed and open drainage network.

(10) Proposed storm drain or waterway sizes.

(11) Location and amount of stormwater runoff leaving site after construction and stormwater management measures proposed. 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 and storm drains, if any, accepting stormwater off-site, and what measures including infiltration, sheeting into buffers, outfall setbacks, etc. are to be used to spread concentrated runoff and prevent the scouring of waterways and drainage areas off-site.

If the downstream storm drain or waterway is not of sufficient size to handle the post development runoff, or even the pre-development a review shall be undertaken to determine if any reasonable accommodation can be given in the stormwater plan to reducing the likelihood of problems downstream. The plan will be expected to address, to the extent reasonable, improvements that will reduce the release rate to no greater than the capacity of the downstream storm drains or waterways.

Outfall pipes from storm drain systems and stormwater management facilities shall be setback sufficiently from off-site properties to allow the concentrated water to spread out back to pre-development flow characteristics. Under no circumstances shall an outfall pipe, as measured from the end section, head wall, or pipe, if no end structures used, be any closer than ten feet (10') from the off-site property unless a drainage easement from the off-site property owner is obtained and recorded. The outfall setback shall be determined by the engineer and shall be based on outflow rate and the receiving channel or pipe characteristics.

Stormwater discharge from a concentrated point such as a pipe outfall shall discharge onto rip-rap or other velocity/energy dissipating method to reduce erosion potential. All rip-rap or other stone used to reduce velocity shall be placed on a geotextile to prevent scouring and the stone from sinking into the underlying soil.

The overflow path through the site and from any stormwater management device from stormwater runoff above the storm event, shall not impact any structure.

(12) The projected sequence of construction represented by the grading, drainage and erosion and sedimentation 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 stormwater facilities. The sequence of construction is a vital component of the drainage and sediment control plan and it explains to the contractor, and stormwater coordinator, when the drainage and sediment control devices are to be in place.

The sequence of construction shall state that no clearing or grading may begin until all perimeter sediment control devices are in place and functional.

(13) Specific remediation measures to prevent erosion and sedimentation runoff and to meet approved standards as outlined in § 14-608 of this chapter. Plans shall include detailed drawings of all control measures used; stabilization measures including vegetation and non-vegetative 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.

If a detention pond is to be used initially as a temporary sediment basin, then appropriate details and notes shall be provided showing how the pond will increase the residence time of the sediment laden water and when and how the sediment basin is to be converted to a permanent detention pond. Typically this conversion occurs once the upland drainage area to the pond has been stabilized. The sequence of construction shall include notes on when these activities are to take place.

The use of earth berms/dikes, swales, sediment traps, outlet structures, and sediment basins are strongly encouraged over the use of silt fence and straw bales for long term projects and where concentrated runoff is present.

All disturbed areas that will not be disturbed again within fourteen (14) days shall be temporary or permanently stabilized with seed, mulch, and/or other appropriate measures within fourteen (14) days of grading or clearing operations ceasing. It is very important that disturbed soil be stabilized as soon as possible to prevent sediment runoff. For slopes 3:1 or steeper, they must be temporarily or permanently stabilized within seven (7) days of grading ceasing on those slopes.

(14) A stone construction exit per the Tennessee Sediment Control Handbook shall be provided for all construction ingress/egress points for all construction projects including single lot construction. This is required in order to prevent mud, sediment, and debris on Bluff City streets and public ways at a level acceptable to the stormwater coordinator. Mud, sediment, and debris brought onto streets and public ways must be removed by the end of the day by machine, broom or shovel to the satisfaction of the stormwater coordinator. Failure to remove said sediment, mud or debris shall be deemed a violation of this ordinance.

It is the contractor's responsibility to prevent sediment from leaving the construction site and this includes sediment leaving the site by way of runoff flowing out the entrance or by vehicular tires carrying the sediment into the street. If there is runoff flowing down the construction exit to the street, a mountable stone berm or equivalent measures shall be used to direct the runoff to sediment control devices adjacent to the exit. The use of smaller stone or gravel other than shown in the Tennessee Sedimentation Control Handbook is not permitted.

(15) Proposed structures; location (to the extent possible) and identification of any proposed additional building, structures or development on the site.

(16) A description of on-site measures to be taken to recharge surface water in to the ground water system through infiltration, if appropriate for the site.

(17) The plan must have the seal of the design professional responsible for creating the plan. The stamped and signed plan, if approved, shall be copied and be the official plan that must be available in the field during construction.

(as added by Ord. #2003-001, May 2003, and replaced by Ord. #2008-001, Jan. 2008, and Ord. #2012-016, Oct. 2012)

14-608. Plan must contain measures to meet approved standards. The stormwater plan shall contain measures that will ensure development, construction or site work will meet or exceed the following standards:

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

(2) Plans for development and construction shall seek to minimize cut and fill operations. Construction and development plans calling for excessive cutting and filling shall be justified to the Bluff City Planning Commission.

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

(4) Pre-construction vegetation ground cover shall not be removed, destroyed, or disturbed prior to obtaining a grading permit. Perimeter sediment controls shall be in place prior to the start of clearing or grading operations.

(5) Developers shall be responsible upon completion of land disturbing activities to leave slopes and developed or graded areas so that they will not erode. Such methods include, but are not limited to, re-vegetation, mulching, rip-rapping or gunniting, and retaining walls. Bank cuts and fills should preferably be 3 to 1 slopes or flatter; however, they shall not exceed a 2 to 1 slope without planning commission approval and must be permanently stabilized. Regardless of the method used, the objective is to leave the site as erosion and maintenance free as is practical.

(6) Provisions are implemented that accommodate any increased in stormwater runoff generated by the development in a manner in which the pre-development levels of runoff for the two (2) and ten (10) year storm events are not increased during and following development and construction. The board of mayor and aldermen reserves the right to require stormwater management to maintain pre-development levels of runoff for the 25-, 50-, 100-year storm event, when it is determined that it is in the best interest of the town to consider "partnering" with the developer to further reduce stormwater flows onto adjoining properties or if a known flooding problem exists downstream.

Any stormwater detention or retention pond shall also be designed to pass the 100-year storm (peak attenuation to the 100-year pre-development rate is not required) through the pond without over topping any portion of the dam. This can be accomplished through the principal spillway shall be installed on

virgin soil and is not placed on fill material or the dam. If it is not feasible to place the emergency spillway on virgin soil then the principal spillway shall be designed for the 100-year storm.

To the extent necessary, sediment in runoff water must be trapped by the use of sediment basins, silt traps or other sediment control measures until the disturbed area is stabilized. Structural controls shall be designed and maintained as required to prevent pollution. The town strongly encourages the se of sediment traps/basins and earth berms/dikes for sediment control measures. Silt fence may be used but should not always be the first or only device considered.

All off site surface water flowing toward the construction or development area shall, to the extent possible, be diverted around the disturbed area by using berms, channels, or other measures as necessary. Limiting the amount of runoff, especially concentrated runoff, from flowing through the construction site can be extremely helpful in preventing or significantly reducing sediment runoff. Under no circumstances, unless a drainage easement is obtained, may be diverted off site runoff be redirected onto off site properties or be diverted onto an off-site property's existing drainage way in a manner that would cause harm to the property.

(7) All grading, vegetation, drainage, stormwater, erosion and sedimentation control mitigation measures shall conform to any or all best management practices approved and revised from time to time by the board of mayor and aldermen and meet the requirements of the current State of Tennessee's Erosion and Sediment Control Handbook.

(8) All perimeter sediment control devices such as earth berms/dikes, swales, sediment basins, sediment traps, and other perimeter drainage and sedimentation control measures shall be installed in conjunction with initial work and must be in place and functional prior to the initial grading operations. These measures must be maintained throughout the development process. Sediment basins and/or sediment traps may be temporary, but shall not be removed without the approval of the stormwater coordinator.

(9) A minimum twenty-five foot (25') undisturbed buffer shall be provided from the top of bank along both sides of streams except as necessary for the installation of utilities, development of roads, or construction of outfalls for stormwater facilities and related drainage improvements and for removal of invasive species to enhance the existing buffer. These utility, road, and stormwater outfall disturbances shall be designed to minimize disturbance and impact on the stream and its buffers. Any disturbance to streams or wetlands require an Aquatic Resource Alteration Permit through the State of Tennessee. During construction, a thirty feet (30') average (fifteen feet (15') minimum) undisturbed buffer or equivalent measures, shall be provided from the top of the stream bank. If the stream is a siltation or stream side habitat impaired or exceptional water of the state, the undisturbed buffer during construction is

increased to a sixty foot (60') average (thirty feet (30') minimum) or equivalent measures.

(10) Soil and other materials shall not be temporarily or permanently stored in locations which would cause suffocation of root systems of trees intended to be preserved. Stockpiled soils shall have silt fencing or other sedimentation control measures surrounding, and shall be located away from street, curbs and drainage ways to prevent sediment from getting into local waters or streets and public ways.

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

(12) The permanent vegetation shall be installed on areas of the construction site that are outside of the building area, pad or footprint, as soon as utilities are in place and final grades are achieved. Without prior approval of an alternate plan by the Bluff City Planning Commission, permanent or temporary soil stabilization must be applied to disturbed areas outside of the building pad or footprint within fourteen (14) days from substantial completion of grading, or where these disturbed areas outside the building site will remain unfinished for more than fourteen (14) calendar days. The building area should be stabilized with a concrete pad or the footprint covered with gravel.

(13) Stormwater management facilities and drainage structures shall, where possible, use natural topography and natural vegetation. In lieu thereof, these structures shall have planted trees and vegetation such as shrubs and permanent ground cover on their borders, except no woody vegetation such as trees and shrubs shall be planted on dam areas or within twenty-five feet (25') of the dam. Plant varieties shall be those sustainable in a drainage way environment or as may be outlined in best management practices.

(14) In many situations stormwater management facilities and drainage structures need to be fenced in order to protect public safety. The Bluff City Planning Commission may require fencing for any basin or structure. When fencing is required, the following specifications apply:

(a) Height: minimum of forty-two inches (42").

(b) For residential areas and high visibility commercial areas, the fencing shall be split rail with black or green vinyl coated wire attached, or some other type of attractive fencing but shall not be chain link fencing.

For commercial and industrial uses, the fencing may be chain link up to six feet (6') tall. Under no circumstances may barbed wire be used.

(c) A lockable access gate of a minimum width of twelve feet (12') must be provided to allow access by equipment and machinery as needed for maintenance.

(d) An adequate access road to the gate sufficient for maintenance vehicles and equipment.

The Bluff City Planning Commission may consider and approve other fencing alternatives provided that the alternatives presented meet minimum safety and security objectives.

(15) Stormwater plans must meet minimum requirements established in by the State of Tennessee's Construction General Permit, where applicable, and in their Erosion and Sediment Control Handbook. If there is a conflict between these regulations and the State of Tennessee's regulation, the most stringent regulation shall apply.

All erosion and sediment control devices shall be designed for the two (2) year, twenty-four (24) hour storm as a minimum. For drainage area of ten (10) acres or more to a single outfall point, a sediment basin(s) or equivalent measures shall be used and designed for the two (2) year, twenty-four (24) hour storm.

For projects which drain into an impaired or exceptional state water, the erosion and sediment control devices shall be designed for the five (5) year, twenty-four (24) hour storm and a sediment basin or equivalent measures shall be used for drainage areas of five (5) acres or more to a single outfall point.

(16) For projects that are not exempt, provide permanent water quality stormwater management in accordance with § 14-634.

The Town of Bluff City wishes to minimize the negative effects of development on our environment, on our economy, and on our health while at the same time reducing development costs for the developers and maintenance costs for the town and the developer. All efforts should be utilized to implement site design and non-structural stormwater management practices to reduce and minimize runoff in new development. Efforts to enhance infiltration, passage or movement of water into the soil surface, reduction of hard surfaces, minimizing the concentration of runoff, and lengthening of the time of concentration should be a priority.

The following BMPs and stormwater credits can be applied to the peak and water quality stormwater calculations thereby reducing the size and cost of the stormwater BMPs:

(a) Natural area conservation. The preservation of forest, wetlands, pasture land, and other sensitive areas of existing vegetation thereby retaining pre-development hydrologic and water quality characteristics. If these areas are undisturbed and placed in a recorded protective easement, these areas may be subtracted from the total site area when calculating water quality volume. The post development curve numbers for these areas can be modeled as forest in good condition.

(b) Disconnection of rooftop runoff. Rooftop runoff that is disconnected from another impervious surface and directed over a pervious area will infiltrate into the soil or be filtered by the surface material. The longer the flow path of the water from the pipe across

vegetated areas, the greater the filtering and infiltration of the runoff which in turn improves water quality and reduces downstream runoff.

If the lot is graded to disperse the rooftop runoff as sheet flow through at least fifty feet (50') of thick grass or other thick vegetation or through at least twenty-five feet (25') of existing woodlands, fifty percent (50%) of the rooftop impervious area draining through the vegetation may be modeled as grass in good condition when calculating the post development curve number. If reforestation or planted landscape beds equal in area to fifty percent (50%) of the rooftop area is placed in the path of the disconnected rooftop runoff, then the remaining fifty percent (50%) of the rooftop impervious area may be modeled as grass in good condition when calculating the post development curve number.

If the rooftop runoff is discharged into a properly designed and constructed bioretention facility/rain garden onsite, one hundred percent (100%) of the rooftop impervious area draining to the device may be modeled as grass in good condition when calculating the post development curve number.

In addition, under both conditions listed above, the total impervious area in the water quality calculations may be reduced relative to the impervious area reduction associated with the curve number credit.

If downspouts need to be piped away from building foundations to prevent damage to the foundations, the pipes must outfall at least ten feet (10'), preferable further, from any property line. If the downspouts are piped and the runoff cannot disperse in accordance with the above requirements, no stormwater credit is available.

(c) Disconnection of non-rooftop impervious runoff. Rooftop runoff that is disconnected from another impervious surface and directed over a pervious area will infiltrate into the soil or be filtered by the surface material. The longer the flow path of the water across vegetated areas, the greater the filtering and infiltration of the runoff which in turn improves water quality and reduces downstream runoff.

Discharging runoff from impervious surfaces onto pervious surfaces through the use of pervious pavers, permeable paving surfaces, rain gardens/bioretention facilities, grassed swales, use of open road sections in lieu of curbed roads, and by grading the site so that runoff travels from an impervious surface to a pervious surface before being collected in a drainage system. All of these increase filtering and infiltration of stormwater before the flows become concentrated and this in turn improves water quality and reduces downstream runoff which means pipes, swales, ditches, and stormwater facilities can be smaller.

Avoid sending runoff from one (1) impervious surface directly onto another impervious surface. Place pervious surfaces between impervious surfaces along the runoff path.

If the site is graded to disperse the impervious runoff as sheet flow through at least fifty feet (50') of thick grass or other thick vegetation or through at least twenty-five feet (25') of existing woodlands, fifty percent (50%) of the impervious area draining through the vegetation may be modeled as grass in good condition when calculating the post development curve number. If the impervious runoff is discharged into a properly designed and constructed bioretention facility/rain garden onsite, one hundred percent (100%) of the impervious area draining to the device may be modeled as grass in good condition when calculating the post development curve number.

(d) Sheet flow. Maintain sheet flow for as long as possible before the runoff has to be collected in a stormwater conveyance system. Sheet flow increases infiltration and lengthens the time of concentration which in turn improves water quality and reduces runoff downstream. Spread out concentrated flows created by the development before they are discharged offsite using stilling basins, level spreaders, directing runoff through woodlands, or other means so the runoff returns to pre-development characteristics to meet the adequacy of outfall provision of this ordinance and to improve water quality and reduce runoff downstream.

(e) Grass channels in lieu of piping or hard surface channels.

(f) Environmentally sensitive development. Maintaining/not disturbing environmentally sensitive areas such as streams, stream buffers, existing woodlands, existing steep slopes, wetlands, etc., the reduction of cut and fill, excavating, etc. and the appropriate balance of buildings and parking on the development site.

(g) Improvements to and the reduction in the impervious areas on the development site. Design parking lots with the minimum amount of hard surface required to meet the zoning regulations. If additional parking area is desired, the town strongly encourages the employee and/or overflow parking areas to be constructed in a more pervious material than asphalt or concrete. If the parking regulations require excessive parking for your type of development, discuss the issue with the town staff. If the town staff feels a reduction in the number of required parking spaces is justified, a variance can be submitted to the board of zoning appeals to reduce the parking requirements which in turn will reduce the amount of impervious surface installed.

(h) Increased use of trees, shrubs and ground cover, which absorb up to fourteen (14) times more rainwater than grass and require less maintenance.

(17) Neighboring persons and property shall be protected from damage or loss resulting from an increase in stormwater runoff above the pre-development rate, soil erosion, or the deposit upon private property, public streets or right-of-ways of silt and debris transported by water from

construction, excavating, grading, etc. associated with a development. (as added by Ord. #2003-001, May 2003, and replaced by Ord. #2008-001, Jan. 2008, and Ord. #2012-016, Oct. 2012)

14-609. Permit application. In addition to the stormwater plan, applications for a grading permit involving land disturbing activities must include the following:

(1) Name of applicant;

(2) Business or residence address of applicant;

(3) Name and address of owner(s) of property involved in activity;

(4) Address and legal description of property, and names of adjoining property owners;

(5) Name, address and state license number of contractor, if different from applicant, and to the extent possible any subcontractor(s) who shall undertake the land disturbing activity and who shall implement the stormwater plan;

(6) A brief description of the nature, extent, and purpose of the land disturbing activity;

(7) Proposed schedule for starting and completing project. (as added by Ord. #2003-001, May 2003, and replaced by Ord. #2008-001, Jan. 2008, and Ord. #2012-016, Oct. 2012)

14-610. Plan development at developer's expense. Unless approved by the board of mayor and aldermen, all stormwater plans shall be developed and presented at the expense of the owner/developer. (as added by Ord. #2003-001, May 2003, and replaced by Ord. #2008-001, Jan. 2008, and Ord. #2012-016, Oct. 2012)

14-611. Plan submitted to stormwater coordinator. Three (3) copies of the stormwater plan shall be submitted directly to the town who will direct a copy to the stormwater coordinator, and may provide copies to others for review. Any insufficiencies and violations determined by the stormwater coordinator and others shall be noted and comments will be directed back to the applicant/developer. The plan will then be revised as required prior to being presented to the Bluff City Planning Commission. (as added by Ord. #2003-001, May 2003, and replaced by Ord. #2008-001, Jan. 2008, and Ord. #2012-016, Oct. 2012)

14-612. Plan submitted in number satisfactory to planning commission. The Bluff City Planning Commission shall determine the number of copies of the stormwater plan that must be provided to the commission by the owner/developer. (as added by Ord. #2003-001, May 2003, and replaced by Ord. #2008-001, Jan. 2008, and Ord. #2012-016, Oct. 2012)

14-613 Plan review. The Bluff City Planning Commission shall review stormwater plans as quickly as possible while still allowing for a thorough evaluation of the problems and mitigation measures identified and addressed. (as added by Ord. #2003-001, May 2003, deleted by Ord. #2008-001, Jan. 2008, and replaced by Ord. #2012-016, Oct. 2012)

14-614. Grading permit and security. Following approval of the stormwater plan by the planning commission, a grading permit shall be obtained from the stormwater coordinator. The grading permit shall become null and void one hundred eighty (180) calendar days from the date of issuance unless land disturbing activities have commenced, or land disturbing activities are not complete within eighteen (18) months from date of commencement of land disturbing activities.

The stormwater coordinator may, at his/her discretion, require a performance security or bond prior to the issuance of a grading permit to ensure that the stormwater practices are installed properly by the permittee as required by the approved stormwater plan. The amount of the security or bond shall be the total estimated construction cost of the stormwater BMPs including stabilization plus any reasonably foreseeable additional related costs, e.g., for damages and enforcement. The applicant shall provide an itemized construction cost estimate complete with unit prices which shall be subject to acceptance, amendment, or rejection by the stormwater coordinator. Alternatively, the stormwater coordinator shall have the right to calculate the estimate of construction costs.

The security or bond shall be made out to the Town of Bluff City with language acceptable to the town attorney. Upon the posting of the bond, the developer must sign and have notarized an approved certification granting permission for any stormwater plan activities to be made on the property in case of default. If after eight (8) months from the start of construction it appears that the stormwater plan activities approved by the Bluff City Planning Commission will not be implemented within a twelve (12) month period, the stormwater coordinator, in conjunction with the town attorney, at his or her discretion after a notice of non-compliance has been properly issued as outlined in § 14-628 of this chapter and the developer has failed to comply, may cash said security or bond to complete all of the improvements approved or any portion of the stormwater plan activities it deems necessary to protect the health and safety of residents and to protect the quality of local waters.

The security or bond shall only be released by the stormwater coordinator following completion of construction and acceptance of the grading, vegetation, drainage, stormwater management, and erosion and sedimentation control measures. A registered design professional shall provide written certification that the structural BMPs are installed correctly per the approved stormwater plan or that they were installed differently than the approved stormwater plan but that they are still working properly and meet all applicable regulations. The

stormwater coordinator shall make a final inspection of the site to ensure compliance with the approved stormwater plan, provisions of this ordinance, and/or the design professional's certification. Provisions for a partial pro-rata release of the security or bond based on completion of various development stages can be made at the discretion of the stormwater coordinator. (as added by Ord. #2003-001, May 2003, deleted by Ord. #2008-001, Jan. 2008, and replaced by Ord. #2012-016, Oct. 2012)

14-615. Stormwater coordinator may require additional protective measures. The stormwater coordinator has the authority at their discretion to require ground cover or other remediation measures preventing stormwater, erosion and sediment runoff, if either determines after construction begins that the plan and/or implementation schedule approved by the planning commission does not adequately provide the protection intended in the ordinance and in the approval issued by the commission. Additional protective measures required by the stormwater coordinator that fall under the authority of the planning commission are subject to appeal under the procedures outlined in § 14-631 of this chapter. (as added by Ord. #2003-001, May 2003, deleted by Ord. #2008-001, Jan. 2008, and replaced by Ord. #2012-016, Oct. 2012)

14-616. Certification of design professional. The registered design professional responsible for developing the stormwater plan may be required to provide written certification to the extent possible that the stormwater management facility approved by the planning commission have been implemented satisfactorily and are in compliance with the approved plan. The Town of Bluff City through the stormwater coordinator will ultimately have final approval authority through the issuance of certificate of occupancy as designated in § 14-629. (as added by Ord. #2003-001, May 2003, deleted by Ord. #2008-001, Jan. 2008, and replaced by Ord. #2012-016, Oct. 2012)

14-617. Stormwater management facilities and drainage structures maintained. All on-site stormwater management and drainage structures shall be properly maintained by the owner/developer during all phases of construction and development so that they do not become a nuisance. Nuisance conditions shall include: improper storage resulting in uncontrolled runoff and overflow; stagnant water with concomitant algae growth, insect breeding, and odors; discarded debris; and safety hazards created by the facilities operation. When problems occur during any phase of construction and development, it is the responsibility of the developer to make the necessary corrections. Corrective actions will be monitored and inspected by the stormwater coordinator.

The board of mayor and aldermen may accept ownership of stormwater management facilities in behalf of the town under the terms set forth in § 14-619 of this chapter, however, unless the town accepts ownership the

developer, or a legal entity acceptable to the planning commission, shall have on-going responsibility to see that the stormwater management facility is properly maintained and operational. The developer shall provide the necessary permanent easements to provide town personnel access to the stormwater management facilities and drainage structures for periodic inspection. A right-of-way to conduct such inspections shall be expressly reserved in the permit. (as added by Ord. #2003-001, May 2003, deleted by Ord. #2008-001, Jan. 2008, and replaced by Ord. #2012-016, Oct. 2012)

14-618. Improperly maintained stormwater management facilities and drainage structures a violation. The stormwater coordinator shall periodically monitor and inspect the care, maintenance and operation of stormwater management facilities and drainage structures during and after construction and development. Facilities found to be a nuisance, as defined in § 14-618, are in violation of the ordinance are subject to fines of up to five thousand dollars ($5,000.00) per day for each day of violation[1] with each additional day considered a separate violation. (as added by Ord. #2003-001, May 2003, deleted by Ord. #2008-001, Jan. 2008, and replaced by Ord. #2012-016, Oct. 2012)

14-619. Town may take ownership of stormwater management facilities and drainage structures. The Bluff City Planning Commission shall have the authority to recommend to the board of mayor and aldermen that the town take ownership of stormwater management facilities and drainage structures provided that the board and commission feel the public interest is best served by the town providing on-going responsibility for maintenance and up-keep. The board of mayor and aldermen will consider the recommendations of the planning commission on a case-by-case basis. In such cases, approval of the transfer of ownership shall only occur after the board of mayor and aldermen has received an inspection report from the stormwater coordinator, with the possible technical assistance of others, that certifies to the extent possible said devices have been properly constructed and landscaped, are operating effectively, and appropriate safety and protective measures have been implemented or constructed. The design professional for the project shall also certify that the stormwater management/drainage facility meets the standards outlined in best management practices. Transfer of ownership to the town shall occur at or near the completion of the subdivision or development and the developer must provide fee simple title to the property on which the stormwater management or drainage structure is located and/or any necessary easements allowing the Town of Bluff City to get access to the facilities for routine

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[1]State law ordinance
Tennessee Code Annotated, § 68-621-1101.

maintenance and care. (as added by Ord. #2003-001, May 2003, deleted by Ord. #2008-001, Jan. 2008, and replaced by Ord. #2012-016, Oct. 2012)

14-620. Technical assistance. The town staff and/or consultants for the town are available for consultation and advice concerning stormwater management and erosion and sedimentation problems to all persons planning to develop land within the town or under the subdivision jurisdiction of the Bluff City Planning Commission. (as added by Ord. #2003-001, May 2003, deleted by Ord. #2008-001, Jan. 2008, and replaced by Ord. #2012-016, Oct. 2012)

14-621. Stormwater coordinator responsible for providing safeguards in projects less than one acre or utilizing less than three (3) lots. Projects undertaken within the city limits of Bluff City that are not subject to review and approval of the Bluff City Planning Commission shall fall under the responsibility of the enforcement officers to see that the measures required in this chapter to protect the health and safety of the people and to protect the quality of surface water are carried out as needed. The stormwater coordinator shall require reasonable drainage and erosion and sedimentation control measures as part of the grading permit process outlined in § 14-622. Under no conditions shall the developer/contractor of a property allow silt or sedimentation to enter drainage ways or adjoining properties, or allow stormwater flows to adversely impact adjoining properties. Denuded areas, cuts, and slopes in areas outside the building site shall be properly covered within the same schedule as directed in § 14-608(14) of this chapter. (as added by Ord. #2003-001, May 2003, deleted by Ord. #2008-001, Jan. 2008, and replaced by Ord. #2012-016, Oct. 2012)

14-622. Grading permit also required for any project on less than one acre involving grading, filling, or excavating. A grading permit is also required for any development or construction activity on property one (1) acre or less except for the normal functioning and operation of private agriculture and forest lands; any state or federal agency not under the regulatory authority of the Town of Bluff City for stormwater management, sedimentation and erosion control; and minor land disturbing activities such as home gardens, individual home landscaping, repairs and maintenance. However, said development and construction activities do not require a formal stormwater plan unless specifically requested by the planning commission. The stormwater coordinator shall require that all grading, vegetation, drainage, stormwater, erosion and sedimentation control measures necessary shall be implemented, shall conform to any and all best management practices, and shall meet the objectives established in this ordinance. Developers must also present to the stormwater coordinator a description of the measures that will be taken to address the requirements established in §§ 14-607 and 14-608 of this chapter. These measures must be addressed prior to the stormwater coordinator issuing

a grading permit. Measures preventing excess runoff and erosion must be in place prior to the commencement of grading and/or excavation. (as added by Ord. #2003-001, May 2003, deleted by Ord. #2008-001, Jan. 2008, and replaced by Ord. #2012-016, Oct. 2012)

14-623. Existing developed properties with drainage, erosion and sediment concerns. Properties of any size within the city limits of the Town of Bluff City that have been developed or in which land disturbing activities have previously been undertaken, are subject to the following requirements:

(1) Denuded areas still existing as of the second and final reading of this ordinance must be vegetated or covered under the standards and guidelines specified in the best management practices adopted by the board of mayor and aldermen, and on a schedule acceptable to the stormwater coordinator.

(2) Cuts and slopes must be properly covered with appropriate vegetation and/or retaining walls constructed.

(3) Drainage ways shall be properly covered in vegetation or secured with stones, etc. to prevent erosion.

(4) Junk, rubbish, etc. shall be cleared of drainage ways to prevent possible contaminate and pollution.

(5) Stormwater runoff in commercial areas, office or medical facilities, and multi-family residences of three (3) or more units shall be controlled to the extent reasonable to prevent pollution of local waters. Such control measures may include, but not be limited to, the following:

(a) Oil skimmer/grit collector structure or other water quality device. These structures are designed to skim off floatables out of parking lots and other impervious surfaces, and allow solids of debris and sediment to settle before being discharged in a local waterway.

(b) Stormwater management facilities.

(c) Planting and/or sowing of vegetation and other nonstructural measures.

(d) Rip-rapping, mulching, and other similar erosion control measures associated with local drainage ways. (as added by Ord. #2003-001, May 2003, deleted by Ord. #2008-001, Jan. 2008, and replaced by Ord. #2012-016, Oct. 2012)

14-624. Improvements needed at existing locations/developments determined by the stormwater coordinator. Improvements needed to provide drainage and sediment control in existing and completed developments shall be determined by the stormwater coordinator. The stormwater coordinator shall evaluate existing developments, parking areas, site work, and drainage ways to determine if additional measures to protect health and safety and water quality are needed. Recommendations shall be:

(1) Provided in writing to the property/business owner.

(2) Detailed as to specific actions required and why these actions are necessary.

(3) Made with a reasonable period of time for implementation. (as added by Ord. #2003-001, May 2003, deleted by Ord. #2008-001, Jan. 2008, and replaced by Ord. #2012-016, Oct. 2012)

14-625. Improvements required in existing developments normally at owner's expense. Stormwater control measures required in existing developed properties shall normally be undertaken at the property or business owner's expense. Unless, determined otherwise by the board of mayor and aldermen, drainage and sedimentation control measures implemented shall be properly maintained by the property or business owner. The board of mayor and aldermen, however, at its discretion in circumstances in which board members feel the town's participation is essential to protecting the health and safety of residents and the water quality of Bluff City's drainage ways, may approve cost-sharing or total financial responsibility for needed drainage and sedimentation control measures. (as added by Ord. #2003-001, May 2003, deleted by Ord. #2008-001, Jan. 2008, and replaced by Ord. #2012-016, Oct. 2012)

14-626. Town may take responsibility for existing stormwater management facilities and drainage structures. The Bluff City Planning Commission may recommend that the board of mayor and aldermen take responsibility for existing stormwater management facilities and drainage structures if the commission determines that the general public is better served when said facilities are under the long-term maintenance responsibility of the town. The board of mayor and aldermen will consider these recommendations on a case-by-case basis. Facilities considered shall be accepted as outlined in § 14-619 of this chapter. The Bluff City Planning Commission may also recommend to the board of mayor and aldermen that the town participate in making certain improvements to existing facilities in addition to accepting responsibility for their long-term maintenance and care if the commission feels said improvements are in the best interest of the general public. (as added by Ord. #2003-001, May 2003, deleted by Ord. #2008-001, Jan. 2008, and replaced by Ord. #2012-016, Oct. 2012)

14-627. Improvements required with existing developments subject to appeal. Improvements required by the stormwater coordinator as outlined in §§ 14-624 and 14-625 of this chapter are subject to appeal by the property/business owners to the Bluff City Planning Commission as specified in § 14-631. (as added by Ord. #2003-001, May 2003, deleted by Ord. #2008-001, Jan. 2008, and replaced by Ord. #2012-016, Oct. 2012)

14-628. Monitoring, reports, and inspections. The stormwater coordinator, with the possible assistance of others, shall make periodic inspections, during construction and development, of the land disturbing activities, the stormwater management system installations, and other activities requiring a grading permit to ensure compliance with the approved plan and Bluff City's Best Management Practices. For construction sites draining to siltation impaired streams or exceptional waters of the state, the town shall perform monthly inspections. Inspections will evaluate whether the measures required in the stormwater plan and/or grading permit and undertaken by the developer are effective in controlling erosion. The right of entry to conduct such inspections shall be expressly reserved in the permit.

As a minimum, the owner/operator of any construction project which requires a stormwater plan is required to perform twice weekly inspections of their erosion and sediment control devices and to perform required maintenance in a timely manner. If the construction project requires a construction stormwater permit through the State of Tennessee, the owner/operator shall perform inspections, site assignments, maintenance of devices, and documentation in accordance with the State of Tennessee's current construction general permit.

For drainage areas of ten (10) acres or more to a single outfall (five (5) acres or more if draining to siltation or stream-side habitat alteration impaired or exceptional waters of the state), a site assessment by the design professional who prepared the plans shall be performed within one (1) month of grading or clearing operations starting to verify the installation, functionality and performance of all erosion and sediment control measures on the plans and in the SWPPP. Any issues shall be addressed immediately and the plans and SWPPP updated, if applicable. (as added by Ord. #2003-001, May 2003, deleted by Ord. #2008-001, Jan. 2008, and replaced by Ord. #2012-016, Oct. 2012)

14-629. Certificate of occupancy not issued until approvals. The Town of Bluff City will not issue a certificate of occupancy necessary to occupy any commercial or residential establishment until all aspects of the stormwater plan including stormwater management facilities have been completed, control devices constructed have been approved and accepted, and, if within a subdivision or commercial development, all paving, landscaping of public ways, and utilities, including street lighting if decorative lights are used, are approved and accepted. (as added by Ord. #2003-001, May 2003, deleted by Ord. #2008-001, Jan. 2008, and replaced by Ord. #2012-016, Oct. 2012)

14-630. Plan construction acceptance and security release. Stormwater plan activities must be inspected and accepted by the stormwater coordinator before final plat approval and/or security release. If within a commercial development or subdivision, streets, sidewalks, curbs and alleys, landscaping, street lighting, storm drain, stormwater management, water,

sewer, and any installation of electric, telephone, cable, and gas utilities must be approved and accepted by the appropriate official before final plat approval and/or security release. (as added by Ord. #2003-001, May 2003, deleted by Ord. #2008-001, Jan. 2008, and replaced by Ord. #2012-016, Oct. 2012)

14-631. Appeal of administrative action. Any person aggrieved by the imposition of a penalty, damage assessment, or the decisions of the stormwater coordinator or any enforcement officer may appeal said penalty, damage assessment, or other decisions to the town's governing body.

The appeal shall be filed in writing with the town recorder or clerk within fifteen (15) days from the date the penalty or damage assessment was served in any manner authorized by law or the decision was rendered.

Upon receipt of an appeal, the town's governing body shall hold a public hearing within thirty (30) days. At least ten (10) days prior to the hearing, the notice of the time, date, and location of said hearing shall be both published in a daily newspaper of general circulation and the aggrieved party shall be notified by registered mail to the address provided with the appeal request. The decision of the governing body shall be final.

Any alleged violator may appeal a decision of the town's governing body pursuant to the provisions of Tennessee Code Annotated, title 27, chapter 8. (as added by Ord. #2012-016, Oct. 2012)

14-632. Town clean-up resulting from violations at developer's/ owner's expense. Town staff is authorized at any time during construction and development to take remedial actions to prevent, clean-up, repair or otherwise correct situations in which water, sediment rock, vegetation, etc. ends up on public streets and/or rights-of-way resulting from violation of this ordinance; where necessary drainage erosion and sedimentation control measures have not been properly implemented. In such cases, the cost of labor, equipment, and materials used will be charged to the developer/owner in addition to a service charge of one hundred dollars ($100.00) per hour. The town will invoice the developer/owner directly, and payment shall be received within fourteen (14) days. Failure to pay for remedial actions taken by the town under this section may result in the town attorney filing a lien against the property involved in the action, and may negate any intention by the town to accept responsibility for any drainage and sediment control facilities. The decision of the town to take remedial actions to protect the health and safety of the public in no way supplants or negates the authority of the appropriate town staff to issue citations for violations of this ordinance. (as added by Ord. #2012-016, Oct. 2012)

14-633. Illicit discharge and illegal dumping during construction.

(1) The owner/operator if the site or project must design, install, implement, and maintain effective pollution prevention measures to minimize

the discharge of pollutants. At a minimum, such measures must be designed, installed, implemented and maintained to:

(a) Minimize the discharge of pollutants from equipment and vehicle washing, wheel washwater, and other wash waters. Wash waters must be treated in a sediment basin or alternative control that provides equivalent or better treatment prior to discharge;

(b) Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste and other materials present on the site to precipitation and to stormwater; and

(c) Minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures.

(2) The following discharges are prohibited from construction sites:

(a) Wastewater from washout of concrete, unless managed by an appropriate control.

(b) Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds and other construction materials.

(c) Fuels, oils, or other pollutants used in vehicles and equipment operation and maintenance.

(d) Soaps or solvents used in vehicle and equipment washing. (as added by Ord. #2012-016, Oct. 2012)

14-634. Permanent water quality stormwater management requirements. (1) General requirements. (a) Owners of land development activities not exempted under subsection (3) of this section must submit a water quality management plan. The water quality management plan shall be submitted as part of the site development plans as required by the town zoning ordinance, subdivision regulations, and other standards for development plans.

(b) The water quality BMP manual to be used shall be the Town of Bluff City's manual, if developed, or if it has not been developed then the Northeast Tennessee Water Quality BMP Manual, latest edition, shall be used.

(c) The water quality management plan shall include the specific required elements that are listed and/or described in the water quality BMP manual. The stormwater coordinator may require submittal of additional information in the water quality management plan as necessary to allow an adequate review of the existing or proposed site conditions.

(d) The water quality management plan shall be subject to any additional requirements set forth in the minimum subdivision regulations, zoning ordinance, or other town ordinances and regulations

including peak stormwater management and erosion and sediment control.

(e) Water quality management plans shall be prepared and stamped by a design professional qualified to prepare stormwater and site plans in accordance with State of Tennessee law.

(f) Other state and/or federal permits that may be necessary for construction in and around streams and/or wetlands shall be approved prior to approval of a water quality management plan by the town.

(g) The approved water quality management plan shall be adhered to during grading and construction activities. Under no circumstance is the owner or operator of land development activities allowed to deviate from the approved water quality management plan without prior approval of a plan amendment by the stormwater coordinator.

(h) The approved water quality management plan shall be amended if the proposed site conditions change after plan approval is obtained, or if it is determined by the stormwater coordinator during the course of grading or construction that the approved plan is inadequate.

(i) The water quality management plan shall include a listing of any known legally protected state or federally listed threatened or endangered species and/or critical habitat located in the area of land disturbing activities and a description of the measures that will be used to protect them during and after grading and construction.

(j) Water quality management facilities, BMPs, vegetated buffers and water quality volume reduction areas shown in water quality management plans shall be maintained through covenants for maintenance of stormwater facilities and best management practices or other legal means as determined by the stormwater coordinator. The other means must be legally enforceable to ensure ownership, maintenance responsibility, and inspection requirements are provided for in perpetuity. The covenants, or other legal means, must be approved by and shall be enforceable by the town. The covenants shall be recorded with the Register of Deeds at the Sullivan County Courthouse and shall run with the land and continue in perpetuity.

(k) Water quality management facilities, BMPs, vegetated buffers and water quality volume reduction areas show in water quality management plans shall be placed into a permanent stormwater facilities and best management practices easement held by the town that is recorded with the Register of Deeds at the Sullivan County Courthouse.

(l) A maintenance right-of-way or easement, having a minimum width of fifteen feet (15') shall be provided to all water quality management facilities, BMPs, vegetated buffers and water quality volume reduction areas from a driveway, public road or private road.

(m) Owners of land development activities not exempted from submitting a water quality management plan may be subject to additional watershed or site-specific requirements than those stated in this ordinance in order to satisfy other local, state, and federal water quality requirements. Areas subject to additional requirements may also include developments, redevelopments, or land uses that are considered pollutant hotspots or areas where the stormwater coordinator has determined that additional restrictions are needed to limit adverse impacts of the proposed development on water quality or channel protection.

(n) The stormwater coordinator may waive or modify any of the requirements of § 14-634(2) of this ordinance if adequate water quality treatment and channel protection are suitably provided by a downstream or shared off-site water quality management facility, or if engineering studies determine that installing the required water quality management facilities or BMPs would actually cause adverse impact to water quality or cause increased channel erosion or downstream flooding.

(o) This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, deed restrictions, or existing ordinances and regulations. If provisions of this ordinance and another regulation conflict, that provision which is more restrictive or imposes higher standards or requirements shall control.

(2) Design criteria. (a) All owners of developments or redevelopments who must submit a water quality management plan shall provide treatment of stormwater runoff in accordance with the following requirements:

(i) The stormwater runoff from the site must be treated for water quality prior to discharge from the site in accordance with the stormwater treatment standards and criteria provided in the water quality BMP manual and as found in the peak stormwater management and erosion and sediment control regulations.

(ii) The treatment of stormwater runoff shall be achieved through the use of one (1) or more water quality management facilities and/or BMPs that are designated and constructed in accordance with the water quality BMP manual or other BMPs as approved by the stormwater coordinator.

(iii) Methods, designs or technologies for water quality management facilities or BMPs that are not provided in the water quality BMP manual may be submitted for approval by the stormwater coordinator if it is proven that such methods, designs or technologies will meet or exceed the stormwater treatment standards set forth in the water quality BMP manual and this ordinance.

(iv) BMPs shall not be installed within public rights-of-way or on public property without prior approval of the stormwater coordinator.

(b) All owners of developments or redevelopments who are required to submit a water quality management plan shall provide downstream channel erosion protection in accordance with design criteria stated in the water quality BMP manual. Downstream channel erosion protection can be provided by an alternative approach in lieu of controlling the channel protection volume subject to prior approval by the stormwater coordinator. Sufficient hydrologic and hydraulic analysis that shows that the alternative approach will offer adequate channel protection from erosion must be provided.

(c) All owners of developments or redevelopments who require a grading permit, plan approval, or subdivision approval shall establish, protect, and maintain a vegetated buffer in accordance with the water quality BMP manual and these regulations along all streams, ponds, rivers, lakes, and wetlands. Exemptions from this requirement are as follows:

(i) Vegetated buffers are not required around the perimeter of ponds that have no known connection to streams, other ponds, lakes, rivers, or wetlands.

(ii) Vegetated buffers are not required around water quality management facilities, BMPs, or other detention ponds that are designed, constructed and maintained for the purposes of water quality and/or quantity control, unless expressly required by the design standards and criteria for the facility that are provided in the water quality BMP manual.

(d) In addition to the above requirements, all owners of developments or redevelopments who must submit a water quality management plan shall:

(i) Provide erosion prevention and sediment control in accordance with the ordinances and regulations of the town;

(ii) Control stormwater drainage onsite and provide peak stormwater management in accordance with the ordinances and regulations of the town; and

(iii) Adhere to all local floodplain development requirements in accordance with ordinances and regulations of the town.

(3) Exemptions. (a) Owners of developments and redevelopments who conform to the criteria in subsection (3)(c) are exempt from the requirements of this ordinance, unless the stormwater coordinator has determined that treatment of stormwater runoff for water quality is needed to order to satisfy local or state NPDES, TMDL or other regulatory water quality requirements, or the proposed development will

be a pollutant hotspot, or to limit adverse water quality or channel protection impacts of the proposed development.

(b) The exemptions listed in subsection (3) shall not be construed as exempting the owners of developments and redevelopments from compliance with stormwater requirements stated in the minimum subdivision regulations, zoning ordinance, or other town ordinances and regulations including peak stormwater management and erosion prevention and sediment control.

(c) The following developments and redevelopments are exempt from the requirements for a quality management plan:

(i) Developments or redevelopments that disturb less than one (1) acre of land. No exemption is granted if the development or redevelopment is part of a larger common plan of development or sale that would potentially disturb one (1) acre or more and the stormwater runoff from the development or redevelopment is not treated for water quality via a downstream or regional water quality management facility or BMP that meets the requirements of this ordinance;

(ii) Minor land disturbing activities such as residential or non-residential repairs, landscaping, or maintenance work;

(iii) Public utility service conditions, unless such activity is carried out in conjunction with the clearing, grading, excavating, transporting, or filling of a lot or lots for which a water quality management plan would otherwise be required;

(iv) Installation, maintenance, or repair of individual septic tank lines or drainage fields, unless such activity is carried out in conjunction with the clearing, grading, excavating, transporting, or filling of a lot or lots for which a water quality management plan would otherwise be required;

(v) Agricultural activities;

(vi) Emergency work to protect life, limb or property, and emergency repairs.

(4) Special pollution reduction requirements. (a) A special pollution reduction plan shall be required for the following land uses, which are considered pollutant hotspots:

(i) Vehicle, truck or equipment maintenance, fueling, washing or storage areas including but not limited to: automotive dealerships, automotive repair shops, and car wash facilities;

(ii) Recycling and/or salvage yard facilities;

(iii) Restaurants, grocery stores, and other food service facilities;

(iv) Commercial facilities with outside animal housing areas including animal shelters, fish hatcheries, kennels, livestock stables, veterinary clinics, or zoos;

(v) Other producers of pollutants identified by the stormwater coordinator as a pollutant hotspot using information provided to or collected by him/her or his/her representatives, or reasonably deduced or estimated by him/her or his/her representatives from engineering or scientific study.

(b) A special pollution reduction plan may be required for land uses or activities that are not identified by this ordinance as hotspot land uses but are deemed by the stormwater coordinator to have the potential to generate concentrations of pollutants in excess of those typically found in stormwater.

(c) The special pollution reduction plan shall be submitted as part of the water quality management plan and the BMPs submitted on the plan shall be subject to all other provisions of this ordinance.

(d) Best management practices specified in the special pollution reduction plan must be appropriate for the pollutants targeted at the site.

(e) A special pollution reduction plan will be valid for a period of five (5) years, at which point it must be renewed. At the time of renewal, any deficiency in the pollutant management method must be corrected.

(5) Security. (a) A security that guarantees satisfactory completion of construction work related to water quality management facilities, channel protection, and/or the establishment of vegetated buffers may be required. Final plat approval or certificate of occupancy may be granted if items in subsection (5)(c) and (d) are completed or if a security guarantees their completion.

(b) The security shall be in conformance with § 14-614.

(c) Prior to approval of a final subdivision plat, release of a security, and/or the issuance of an occupancy permit, the property owner/developer shall provide the town with an executed and recorded copy of the protective covenants and an executed and recorded copy of the easement plat showing the easements associated with the locations of the best management practices, water quality management facilities, vegetated buffers, water quality volume reduction areas, and access easements to said facilities.

(d) Prior to approval of a final subdivision plat, release of a security, and/or the issuance of an occupancy permit, the property owner/developer shall provide the town with an accurate record drawing of the property for all the best management practices, water quality management facilities, vegetated buffers, and water quality volume reduction areas.

(6) Record drawings and design certification. (a) Prior to approval of a final subdivision plat, release of a security, and/or the issuance of an occupancy permit, the property owner/developer has to provide the town with an accurate record drawing of the property for all the best

management practices, water quality management facilities, vegetated buffers, and water quality volume reduction areas shown on the approved water quality management plan(s).

(b) The boundaries of water quality management facilities, BMPs, vegetated buffers, or water quality volume reduction areas shall be shown on the record drawings along with any other information in accordance with guidance provided in the water quality BMP manual.

(c) Record drawings shall include sufficient design information to show that water quality management facilities required by this ordinance will operate as approved. This shall include all necessary computations used to determine percent pollutant removal and the flow rates and treatment volumes required to size water quality management facilities and BMPs.

(d) The easements associated with the water quality management facilities, BMPs, vegetated buffers, or water quality volume reduction areas shall be shown on the record drawings along with any other information in accordance with guidance provided in the water quality BMP manual.

(e) The record drawings shall be stamped by the appropriate design professional required to stamp the water quality management plan and/or a registered land surveyor or licensed to practice in the State of Tennessee.

(7) Inspections and maintenance. (a) Right of entry.

(i) During and after construction, the stormwater coordinator or designee may enter upon any property which has a water quality management facility, BMP, vegetated buffer, or water quality volume reduction area during all reasonable hours to inspect for compliance with the provisions of this ordinance, or to request or perform corrective actions.

(ii) Failure of a property owner to allow such entry onto a property shall be cause for the issuance of a violation, stop work order, withholding of a certificate of occupancy, and/or civil penalties.

(b) Requirements. (i) The owner(s) of existing stormwater facilities, water quality management facilities, BMPs, vegetated buffers, and water quality volume reduction areas shall inspect and maintain all devices and areas in accordance with the covenants for maintenance of stormwater facilities and best management practices.

(ii) Inspection and maintenance of privately owned existing stormwater facilities, water quality management facilities, best management practices, vegetated buffers, and water quality volume reduction areas shall be performed at the sole cost and expense of the owner(s) of such facilities/areas. The best

management practices owner shall perform routine inspections on at least an annual basis. Inspections shall be performed by a person familiar with the control measures. The best management practices owner shall maintain documentation of these inspections. A comprehensive inspection of all BMPs shall be conducted once every five (5) years by a professional engineer or landscape architect. Records stating the BMP, date, latitude/longitude, address, BMP owner information, description of BMP, photos of BMP and any corrective action needed and when performed shall be maintained by the BMP owner.

(iii) Inspections and maintenance shall be performed in accordance with specific requirements and guidance provided in the covenants for maintenance of stormwater facilities and best management practices and the water quality BMP manual. Inspection and maintenance activities shall be documented by the property owner (or his/her designee), and such documentation shall be maintained by the property owner for a minimum of three (3) years, and shall be made available for review by the stormwater coordinator upon request.

(iv) The stormwater coordinator has the authority to impose more stringent inspection requirements as necessary for purposes of water quality protection and public safety.

(v) The removal of sediment and/or other debris from existing stormwater facilities, water quality management facilities, and best management practices shall be performed in accordance with all town, state, and federal laws and the water quality BMP manual. The stormwater coordinator may stipulate additional guidelines if deemed necessary for public safety.

(vi) The stormwater coordinator may order corrective actions to best management practices, existing stormwater facilities, water quality management facilities, vegetated buffer areas, and/or water quality volume reduction areas as are necessary to properly maintain the facilities/areas within the town for the purposes of water quality treatment, channel erosion protection, adherence to local performance standards, and/or public safety. When corrective action is required, the BMP owner must initiate the corrective action within thirty (30) days of notice. If the property owner(s) fails to perform corrective action(s), the stormwater coordinator shall have the authority to order the corrective action(s) to be performed by the town or others. In such cases where a performance bond exists, the town shall utilize the bond to perform the corrective actions. In such cases where a performance bond does not exist, the cost of labor, equipment, and materials used will be charged to the developer/owner in addition

to a service charge of one hundred dollars ($100.00) per hour. The town will invoice the developer/owner directly and payment shall be received within fourteen (14) days. Failure to pay for remedial actions taken by the town under this section may result in the town attorney filing a lien against the property involved in the action, and may negate any intention by the town to accept responsibility for any best management practices, existing stormwater facilities, water quality management facilities, vegetated buffer areas, and/or water quality volume reduction areas. The decision of the town to take remedial actions to protect the health and safety of the public in no way supplants or negates the authority of the appropriate town staff to issue citations for violations of this ordinance.

(c) Any alteration, improvement, or disturbance to water quality management facilities, BMPs, vegetated buffers, or water quality volume reduction areas shown in the water quality management plan, certified record drawings, and/or easement plats shall be prohibited without authorization from the stormwater coordinator. This does not include alterations that must be made in order to maintain the intended performance of the water quality management facilities, BMPs, vegetated buffers, or water quality volume reduction areas. (as added by Ord. #2012-016, Oct. 2012)

14-635. Illicit discharge and illegal connection regulations.

(1) Prohibition of illicit discharges. No person shall throw, drain, or otherwise discharge into the Town of Bluff City storm drain system any pollutants or waters containing any pollutants, other than stormwater. The town should identify areas that would be considered "hot spots" for pollution runoff. These sites should be investigated for potential highly contaminated runoff and, if found, enforcement action shall occur.

(2) Exemptions. The following discharges are exempt from the prohibition in subsection (1) above:

(a) Water line flushing performed by a governmental agency;

(b) Landscape irrigation or lawn watering with potable water;

(c) Diverted stream flows permitted by the State of Tennessee;

(d) Rising ground water;

(e) Ground water infiltration to storm drains;

(f) Uncontaminated pumped ground water;

(g) Foundation or footing drains (not including active groundwater dewatering systems);

(h) Crawl space pumps;

(i) Air conditioning condensation;

(j) Springs;

(k) Natural riparian habitat or wetland flows;

(l) Discharges or flows from fire fighting;

(m) Individual residential washing of vehicles;

(n) Vehicle washing for non-profit fund raising purposes as long as the activity does not negatively impact waters of the state;

(o) Swimming pools (if de-chlorinated-typically less than one part per million chlorine);

(p) Street wash waters resulting from normal street cleaning operations as long as the water is cold and does not contain any soap, detergent, degreaser, solvent, emulsifier, dispersant, or other harmful cleaning substance;

(q) Dye testing permitted by the Town of Bluff City;

(r) Any other water source not containing pollutants;

(s) Other discharges specified in writing by the Town of Bluff City as being necessary to protect public health and safety;

(t) Discharges permitted under an NPDES permit or order issued to the discharger and administered under the authority of the state and federal environmental protection agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the Town of Bluff City storm drain system.

(3) Prohibition of illegal connections. The construction, connection, use, maintenance or continued existence of any illegal connection to the Town of Bluff City storm drain system is prohibited:

(a) This prohibition expressly includes, without limitation, illegal connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(b) A person violates this chapter if the person connects a line conveying sewage to the Town of Bluff City storm drain system, or allows such a connection to continue.

(c) Improper connections in violation of this chapter must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval of the receiving sanitary sewer agency.

(d) Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the enforcement officer requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be completed, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storms sewer system, sanitary sewer system or

other discharge point be identified. Results of these investigations are to be documented and provided to the enforcement officer.

(4) Storm drain inlet liability. Storm drain inlets installed in new public streets whether installed by private parties or the Town of Bluff City shall be stenciled with the words "Don't Dump--Drains to Stream" using traffic bearing paint and minimum of two inch (2") high letters.

The stenciling shall be placed in a conspicuous location adjacent to or on the inlet. The preferred location for the stenciling is outside of the road pavement on the curb, if applicable, or the top of the inlet structure. Other alternate locations for the stenciling if the top of the curb or structure does not work are the pavement or sidewalk.

Other methods such as storm drain markers or castings in the structures to provide the words "Don't Dump--Drains to Stream" adjacent to or on the inlets may be used with the building inspector's approval and as long as the wording is conspicuous and long lasting.

The stenciling or other method of labeling installed by private developers within their new developments shall be guaranteed by the private developer for one (1) year from the time of installation and after this guarantee period the Town of Bluff City shall be responsible for maintenance. Labeling installed by the Town of Bluff City or citizen groups in existing public streets shall be maintained by the Town of Bluff City from the time of installation. Other wording besides "Don't Dump--Drains to Stream" may be used with the stormwater coordinator's approval and as long as the intent is the same.

(5) Watercourse protection. Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property boundaries free of trash, debris, and other items and obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse.

(6) Industrial construction activity discharges. Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the enforcement officer prior to allowing discharges to the town of storm drain system.

(7) Access and inspection of properties and facilities. The stormwater coordinator or enforcement officer shall be permitted to enter and inspect properties and facilities at reasonable times as often as may be necessary to determine compliance with this chapter.

(a) If a property or facility has security measures in force which require proper identification and clearance before entry into its premises, the owner or operator shall make the necessary arrangements to allow access for representatives of the enforcement officer.

(b) The owner or operator shall allow the stormwater coordinator or enforcement officer ready access to all parts of the premises for the purposes of inspection, sampling, photography,

videotaping, examination and copying of any records that are required under the conditions of an NPDES permit to discharge stormwater.

(c) The stormwater coordinator or enforcement officer shall have the right to set up on any property or facility such devices as are necessary in the opinion of the enforcement officer to conduct monitoring and/or sampling of flow discharges.

(d) The stormwater coordinator or enforcement officer may require the owner or operator to install monitoring equipment and perform monitoring as necessary, and make the monitoring data available to the enforcement officer. This sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the owner or operator at his/her own expense. All devices used to measure flow and quality shall be calibrated to ensure their accuracy.

(e) Any temporary or permanent obstruction to safe and easy access to the property or facility to be inspected and/or sampled shall be promptly removed by the owner or operator at the written or oral request of the stormwater coordinator or enforcement officer and shall not be replaced. The costs of clearing such access shall be borne by the owner or operator.

(f) Unreasonable delays in allowing the stormwater coordinator or enforcement officer access to a facility are a violation of this chapter.

(g) If the stormwater coordinator or enforcement officer has been refused access to any part of the premises from which stormwater is discharged, and the enforcement officer is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this chapter or any order issued hereunder, or to protect the overall public health, safety, environment and welfare of the community, then the enforcement officer may seek issuance of a search warrant from any court of competent jurisdiction.

(8) Responsibility for discoveries, containment and cleanup. Notwithstanding other requirements of law, as soon as any person responsible for a facility, activity or operation, or responsible for emergency response for a facility, activity or operation has information of any known or suspected release of pollutants or non-stormwater discharges from that facility or operation which are resulting or may result in illicit discharges or pollutants discharging into stormwater, the Town of Bluff City storm drain system, state waters, or water of the United States, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such releases so as to minimize the effects of the discharge.

(9) Responsibility for notification. The person responsible for a facility operation or premises on which a suspected release of pollutants or

non-stormwater discharge may be generated shall notify the authorized enforcement agency in person, by phone, or facsimile no later than twenty-four (24) hours of the nature, quantity and time of occurrence of the discharge. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the stormwater coordinator or enforcement officer within three (3) business days of the phone or in person notice.

(10) Records required. 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 three (3) years. Said person shall also take immediate steps to ensure no recurrence of the discharge or spill.

(11) Immediate notification of hazardous discharge. In the event of such a release of hazardous materials, emergency response agencies and/or other appropriate agencies shall be immediately notified through emergency dispatch services.

(12) Failure to notify a violation. Failure to provide notification of a release as provided above is a violation of this chapter.

(13) Violations. It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter.

(a) Any person who has violated or continues to violate the provisions of this chapter, may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law.

(b) In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this chapter is a threat to public health, safety, welfare, and environment and is declared and deemed a nuisance, and may be abated by injunctive or other equitable relief as provided by law.

(14) Violation an immediate danger to public health or safety. In the event the violation constitutes an immediate danger to public health or public safety, the stormwater coordinator or enforcement officer is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. The stormwater coordinator or enforcement officer is authorized to seek costs of the abatement as outlined in subsection (18) of this section.

(15) Notice of violation. Whenever the stormwater coordinator or enforcement officer finds that a violation of this section has occurred, the stormwater coordinator or enforcement officer may order compliance by written notice of violation.

(a) The notice of violation shall contain:

(i) The name and address of the alleged violator;

(ii) The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;

(iii) A statement specifying the nature of the violation;

(iv) A description of the remedial measures necessary to restore compliance with this chapter and a time schedule for the completion of such remedial action;

(v) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed; and

(vi) A statement that the determination of violation may be appealed to the enforcement officer by filing a written notice of appeal within thirty (30) days of service of notice of violation.

(b) Such notice may require without limitation:

(i) The performance of monitoring, analyses, and reporting;

(ii) The elimination of illicit discharges and illegal connections;

(iii) That violating discharges, practices, or operations shall cease and desist;

(iv) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;

(v) Payment of costs to cover administrative and abatement costs;

(vi) The implementation of pollution prevention practices.

(16) Appeal of notice of violation. Any person receiving a notice of violation may appeal the determination of the stormwater coordinator or enforcement officer in accordance with § 14-631.

(17) Enforcement measures after appeal. If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal, within thirty (30) days of the decision of the appropriate authority upholding the decision of the enforcement officer, then representatives of the stormwater coordinator or enforcement officer may enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

(18) Costs of abatement of the violation. Within thirty (30) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs.

(a) The property owner may file a written protest objecting to the assessment or to the amount of the assessment within thirty (30)

days of such notice. If the amount due is not paid within thirty (30) days after receipt of the notice, or if an appeal is taken, within thirty (30) days after a decision on said appeal upholds the assessment, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

(b) Any person violating any of the provisions of this chapter shall become liable to the Town of Bluff City by reason of such violation.

(19) Remedies not exclusive. (1) The remedies listed in this section are not exclusive of any other remedies available under any applicable federal, state or local law and the stormwater coordinator or enforcement officer may seek cumulative remedies.

(2) The stormwater coordinator or enforcement officer may recover attorney's fees, court costs, and other expenses associated with enforcement of this section, including sampling and monitoring expenses. (as added by Ord. #2012-016, Oct. 2012)

14-636. Variances. (1) Variances to the requirements of this chapter shall be handled by the board of zoning appeals.

(2) The board of zoning appeals shall not approve variances that cause the town to be in violation of any state or federal NPDES permit, TMDL, or other applicable water quality regulation. (as added by Ord. #2012-016, Oct. 2012)

14-637. Penalties and enforcement. (1) Any developer or person who shall commit any act declared unlawful under this chapter, who violates any provision of this chapter, who violates the provisions of any permit issued pursuant to this chapter, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action by the stormwater coordinator or any authorized enforcement officer or the Bluff City Planning Commission, shall be guilty of a violation of this municipal ordinance, and each day of such violation or failure to comply shall be deemed a separate offense and punishable accordingly. Upon conviction, the developer or person may be subject to fines of up to five thousand dollars ($5,000.00) per day for each day of violation.[1] Citations for violations may be issued by any enforcement officer.

(2) In assessing the penalty, the stormwater coordinator may consider:

(a) The harm done to the public health or the environment;

(b) Whether the penalty imposed will be a substantial economic deterrent to the illegal activity;

(c) The economic benefit gained by the violator;

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[1]State law reference

Tennessee Code Annotated, § 68-621-1101.

(d) The amount of effort put forth by the violator to remedy this violation;

(e) Any unusual or extraordinary enforcement costs incurred by the town;

(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.

(3) In addition to any penalty, the town may recover:

(a) All damages proximately caused by the violator to the town, 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 town's maintenance of stormwater facilities when the user of such facilities fails to maintain them as required by ordinance.

(4) The town 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.

(5) The remedies set forth in the 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.

(6) If the stormwater coordinator determines that a property owner, developer, permit holder, or other entity or individual (violator) is in violation of this chapter, the following procedures shall apply:

(a) A notice from the stormwater coordinator or enforcement officer shall be served on the violator either by registered or certified mail, delivered by hand to the violator or an agent or employee of the permittee supervising the activities, or by posting the notice at the property in a visible location, that the violator is in non-compliance.

(b) The notice of non-compliance shall specify the measures needed to comply and shall specify the time within which such corrective measures shall be completed. The stormwater coordinator or enforcement officer shall require a reasonable period of time for the violator to implement measures bringing the project into compliance, however, if it is determined by the stormwater coordinator or enforcement officer that health and safety factors or the damage resulting from being non-compliant is too severe, immediate action may be required.

(c) If the violator holder fails to comply within the time specified, the violator may be subject to the revocation of any permits. In addition, the violator shall be deemed to be in violation of this ordinance and upon conviction shall be subject to the penalties provided in this ordinance.

(d) In conjunction with the issuance of a notice of non-compliance, or subsequent to the permittee not completing the corrective measures directed in the time period required, the stormwater coordinator, or his designee, may issue an order requiring all or part of the land disturbing activities on the site be stopped. The stop work order may be issued with or as part of the notice of non-compliance, or may be delivered separately in the same manner as directed in § 14-637(6)(a). (as added by Ord. #2012-016, Oct. 2012)

14-638. Severability. If any provision of this ordinance is held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect any remaining provisions. (as added by Ord. #2012-016, Oct. 2012)

CHAPTER 7

[DELETED.]

(as added by Ord. #2003-002, May 2003, and deleted by Ord. #2008-001, Jan. 2008)

TITLE 15

MOTOR VEHICLES, TRAFFIC AND PARKING[1]

CHAPTER

CHAPTER 1

MISCELLANEOUS[2]

SECTION

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[1]Municipal code reference
Excavations and obstructions in streets, etc.: title 16.

[2]State law references
Under Tennessee Code Annotated, § 55-10-307, the following offenses are exclusively state offenses and must be tried in a state court or a court having state jurisdiction: driving while intoxicated or drugged, as prohibited by Tennessee Code Annotated, § 55-10-401; failing to stop after a traffic accident, as prohibited by Tennessee Code Annotated, § 55-10-101, et seq.; driving while license is suspended or revoked, as prohibited by Tennessee Code Annotated, § 55-7-116; and drag racing, as prohibited by Tennessee Code Annotated, § 55-10-501.

15-101. Motor vehicle requirements. It shall be unlawful for any person to operate any motor vehicle within the corporate limits unless such vehicle is equipped with properly operating muffler, lights, brakes, horn, and such other equipment as is prescribed and required by Tennessee Code Annotated, title 55, chapter 9. (1980 Code, § 9-101)

15-102. Driving on streets closed for repairs, etc. Except for necessary access to property abutting thereon, no motor vehicle shall be driven upon any street that is barricaded or closed for repairs or other lawful purpose. (1980 Code, § 9-106)

15-103. [Deleted.] (1980 Code, § 9-107, as deleted by Ord. #2006-019, Sept. 2006)

15-104. One-way streets. On any street for one-way traffic with posted signs indicating the authorized direction of travel at all intersections offering access thereto, no person shall operate any vehicle except in the indicated direction. (1980 Code, § 9-108)

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

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

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

(c) Upon a roadway designated and signposted by the town for one-way traffic.

(2) All vehicles proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven as close as practicable to the right hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn. (1980 Code, § 9-109)

15-106. Laned streets. On streets marked with traffic lanes, it shall be unlawful for the operator of any vehicle to fail or refuse to keep his vehicle within the boundaries of the proper lane for his direction of travel except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

On two (2) lane and three (3) lane streets, the proper lane for travel shall be the right hand lane unless otherwise clearly marked. On streets with four (4) or more lanes, either of the right hand lanes shall be available for use except that traffic moving at less than the normal rate of speed shall use the extreme right hand lane. On one-way streets either lane may be lawfully used in the absence of markings to the contrary. (1980 Code, § 9-110)

15-107. Yellow lines. On streets with a yellow line placed to the right of any lane line or center line, such yellow line shall designate a no-passing zone, and no operator shall drive his vehicle or any part thereof across or to the left of such yellow line except when necessary to make a lawful left turn from such street. (1980 Code, § 9-111)

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

It shall be unlawful for any pedestrian or the operator of any vehicle willfully to violate or fail to comply with the reasonable directions of any police officer. (1980 Code, § 9-112)

15-109. General requirements for traffic-control signs, etc. All traffic-control signs, signals, markings, and devices shall conform to the latest revision of the Manual on Uniform Traffic Control Devices for Streets and Highways,[2] published by the U. S. Department of Transportation, Federal Highway Administration, and shall, so far as practicable, be uniform as to type

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[1]Municipal code references

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

[2]This manual may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

and location throughout the town. This section shall not be construed as being mandatory but is merely directive. (1980 Code, § 9-113)

15-110. Unauthorized traffic-control signs, etc. No person shall place, maintain, or display upon or in view of any street, any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic-control sign, signal, marking, or device or railroad sign or signal, or which attempts to control the movement of traffic or parking of vehicles, or which hides from view or interferes with the effectiveness of any official traffic-control sign, signal, marking, or device or any railroad sign or signal. (1980 Code, § 9-114)

15-111. Presumption with respect to traffic-control signs, etc. When a traffic-control sign, signal, marking, or device has been placed, the presumption shall be that it is official and that it has been lawfully placed by the proper authority. All presently installed traffic-control signs, signals, markings and devices are hereby expressly authorized, ratified, approved and made official. (1980 Code, § 9-115)

15-112. School safety patrols. All motorists and pedestrians shall obey the directions or signals of school safety patrols when such patrols are assigned under the authority of the chief of police and are acting in accordance with instructions; provided, that such persons giving any order, signal, or direction shall at the time be wearing some insignia and/or using authorized flags for giving signals. (1980 Code, § 9-116)

15-113. Driving through funerals or other processions. Except when otherwise directed by a police officer, no driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated. (1980 Code, § 9-117)

15-114. Clinging to vehicles in motion. It shall be unlawful for any person traveling upon any bicycle, motorcycle, coaster, sled, roller skates, or any other vehicle to cling to, or attach himself or his vehicle to any other moving vehicle upon any street, alley, or other public way or place. (1980 Code, § 9-119)

15-115. Riding on outside of vehicles. It shall be unlawful for any person to ride, or for the owner or operator of any motor vehicle being operated on a street, alley, or other public way or place, to permit any person to ride on any portion of such vehicle not designed or intended for the use of passengers. This section shall not apply to persons engaged in the necessary discharge of lawful duties nor to persons riding in the load-carrying space of trucks. (1980 Code, § 9-120)

15-116. Backing vehicles. The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic. (1980 Code, § 9-121)

15-117. Projections from the rear of vehicles. Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof, the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve (12) inches square. Between one-half (½) hour after sunset and one-half (½) hour before sunrise, there shall be displayed in place of the flag a red light plainly visible under normal atmospheric conditions at least two hundred (200) feet from the rear of such vehicle. (1980 Code, § 9-122)

15-118. Causing unnecessary noise. It shall be unlawful for any person to cause unnecessary noise by unnecessarily sounding the horn, "racing" the motor, or causing the "screeching" or "squealing" of the tires on any motor vehicle. (1980 Code, § 9-123)

15-119. Vehicles and operators to be licensed. It shall be unlawful for any person to operate a motor vehicle in violation of the "Tennessee Motor Vehicle Title and Registration Law" or the "Uniform Motor Vehicle Operators' and Chauffeurs' License Law." (1980 Code, § 9-124)

15-120. Passing. Except when overtaking and passing on the right is permitted, the driver of a vehicle passing another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the street until safely clear of the overtaken vehicle. The driver of the overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

When the street is wide enough, the driver of a vehicle may overtake and pass upon the right of another vehicle which is making or about to make a left turn.

The driver of a vehicle may overtake and pass another vehicle proceeding in the same direction either upon the left or upon the right on a street of sufficient width for four (4) or more lanes of moving traffic when such movement can be made in safety.

No person shall drive off the pavement or upon the shoulder of the street in overtaking or passing on the right.

When any vehicle has stopped at a marked crosswalk or at an intersection to permit a pedestrian to cross the street, no operator of any other vehicle approaching from the rear shall overtake and pass such stopped vehicle.

No vehicle operator shall attempt to pass another vehicle proceeding in the same direction unless he can see that the way ahead is sufficiently clear and

unobstructed to enable him to make the movement in safety. (1980 Code, § 9-125)

15-121. Damaging pavements. No person shall operate or cause to be operated upon any street of the town any vehicle, motor propelled or otherwise, which by reason of its weight or the character of its wheels, tires, or track is likely to damage the surface or foundation of the street. (1980 Code, § 9-118)

15-122. Bicycle riders, etc. Every person riding or operating a bicycle, motorcycle, or motor driven cycle shall be subject to the provisions of all traffic ordinances, rules, and regulations of the town applicable to the driver or operator of other vehicles except as to those provisions which by their nature can have no application to bicycles, motorcycles, or motor driven cycles.

No person operating or riding a bicycle, motorcycle, or motor driven cycle shall ride other than upon or astride the permanent and regular seat attached thereto, nor shall the operator carry any other person upon such vehicle other than upon a firmly attached and regular seat thereon.

No bicycle, motorcycle, or motor driven cycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

No person operating a bicycle, motorcycle, or motor driven cycle shall carry any package, bundle, or article which prevents the rider from keeping both hands upon the handlebars.

No person under the age of sixteen (16) years shall operate any motorcycle or motor driven cycle while any other person is a passenger upon said motor vehicle.

All motorcycles and motor driven cycles operated on public ways within the corporate limits shall be equipped with crash bars approved by the state's commissioner of safety.

Each driver of a motorcycle or motor driven cycle and any passenger thereon shall be required to wear on his head a crash helmet of a type approved by the state's commissioner of safety.

Every motorcycle or motor driven cycle operated upon any public way within the corporate limits shall be equipped with a windshield of a type approved by the state's commissioner of safety, or, in the alternative, the operator and any passenger on any such motorcycle or motor driven cycle shall be required to wear safety goggles of a type approved by the state's commissioner of safety for the purpose of preventing any flying object from striking the operator or any passenger in the eyes.

It shall be unlawful for any person to operate or ride on any vehicle in violation of this section and it shall also be unlawful for any parent or guardian knowingly to permit any minor to operate a motorcycle or motor driven cycle in violation of this section. (1980 Code, § 9-126)

15-123. Use of Carter Street crossing to cross Southern Railroad tracks prohibited for school buses, etc. It shall be unlawful for any school bus or other general public transportation vehicle to use the Carter Street crossing for the purpose of crossing the Southern Railroad tracks. (1980 Code, § 9-127)

15-124. Private motor vehicles prohibited on public property. The operating and driving of privately owned motor vehicles over public parks and other undeveloped public property within the corporate limits of the town is hereby prohibited. Public notice of this prohibition shall be posted where practicable but the absence of such posting shall not be a defense to the violation of this section. Each separate violation of this section shall be punished and penalized by the assessment of a fine not to exceed $50.00 plus court costs. (Ord. #93-003, April 1993)

15-125. Loading and unloading students and/or passengers in front of Bluff City Elementary School prohibited. It shall be unlawful for any operator of any vehicle with the exception of a school bus to load or unload students and/or passengers at the Maple Street entrance of Bluff City Elementary School. (as added by Ord. #2002-001, Jan. 2002)

15-126. Compliance with financial responsibility law required.

(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 in this title of this municipal code; or at the time of an accident for which notice is required under Tennessee Code Annotated, § 55-10-106, the officer shall request evidence of financial responsibility as required by this section. In case of an accident for which notice is required under Tennessee Code Annotated, § 55-10-106, the officer shall request such evidence from all drivers involved in the accident, without regard to apparent or actual fault.

(3) For the purposes of this section, "financial responsibility" means:

(a) Documentation, such as the declaration page of an insurance policy, an insurance 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 deposit or 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) Civil offense. It is a civil offense to fail to provide evidence of financial responsibility pursuant to this section. Any violation of this section is punishable by a civil penalty of up to fifty dollars ($50.00). The civil penalty prescribed by this section shall be in addition to any other penalty prescribed by the laws of this state or the city's municipal code of ordinances

(5) Evidence of compliance after violation. On or before the court date, the person charged with a violation of this section may submit evidence of compliance with this section in effect at the time of the violation. If the court is satisfied that compliance was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility may be dismissed. (as added by Ord. #2002-004, March 2002, and replaced by Ord. #2006-021, Nov. 2006)

15-127. Commercial vehicles on residential streets restricted.

(1) No commercial vehicles shall be permitted on residential streets within the corporate limits of the city with the exception of the following activities:

(a) Making deliveries to residences located on a residential street or residences in the immediate area of that street;

(b) The operation of school buses and buses used to transport persons to and from a place of worship;

(c) The operation of vehicles transporting children to and from places where they gather, including but not limited to, recreational centers and activities and boys and girls clubs;

(d) Moving cans or trucks; and

(e) All emergency vehicles are exempt from the provisions of this section.

(2) The mayor, city manager or their designee shall have the authority to post appropriate signs notifying the public that commercial traffic is prohibited on any street affected by this section. The absence of such a sign shall not constitute a defense to the violation of the provisions of this section.

(3) The violation of this section shall be punishable by a fine not exceeding fifty dollars ($50.00). (as added by Ord. #2010-1, Feb. 2010)

CHAPTER 2

EMERGENCY VEHICLES

SECTION

15-201. Authorized emergency vehicles defined. Authorized emergency vehicles shall be fire department vehicles, police vehicles, and such ambulances and other emergency vehicles as are designated by the chief of police. (1980 Code, § 9-102)

15-202. Operation of authorized emergency vehicles.[1] (1) The driver of an authorized emergency vehicle, when responding to an emergency call, or when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, subject to the conditions herein stated.

(2) The driver of an authorized emergency vehicle may park or stand, irrespective of the provisions of this title; proceed past a red or stop signal or stop sign, but only after slowing down to ascertain that the intersection is clear; exceed the maximum speed limit and disregard regulations governing direction of movement or turning in specified directions so long as he does not endanger life or property.

(3) The exemptions herein granted for an authorized emergency vehicle shall apply only when the driver of any such vehicle while in motion sounds an audible signal by bell, siren, or exhaust whistle and when the vehicle is equipped with at least one (1) lighted lamp displaying a red light visible under normal atmospheric conditions from a distance of 500 feet to the front of such vehicle, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.

(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. (1980 Code, § 9-103)

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[1]Municipal code reference
Operation of other vehicle upon the approach of emergency vehicles: § 15-501.

15-203. Following emergency vehicles. No driver of any vehicle shall follow any authorized emergency vehicle apparently travelling in response to an emergency call closer than five hundred (500) feet or drive or park any vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (1980 Code, § 9-104)

15-204. Running over fire hoses, etc. It shall be unlawful for any person to drive over any hose lines or other equipment of the fire department except in obedience to the direction of a fireman or policeman. (1980 Code, § 9-105)

CHAPTER 3

SPEED LIMITS

SECTION

15-301. In general. It shall be unlawful for any person to operate or drive a motor vehicle upon any highway or street at a rate of speed in excess of thirty (30) miles per hour except where official signs have been posted indicating other speed limits, in which cases the posted speed limit shall apply. (1980 Code, § 9-201)

15-302. At intersections. It shall be unlawful for any person to operate or drive a motor vehicle through any intersection at a rate of speed in excess of fifteen (15) miles per hour unless such person is driving on a street regulated by traffic-control signals or signs which require traffic to stop or yield on the intersecting streets. (1980 Code, § 9-202)

15-303. In school zones. Generally, pursuant to Tennessee Code Annotated, § 55-8-153 special speed limits in school zones shall be enacted based on an engineering investigation; shall not be less than fifteen (15) miles per hour; and shall be in effect only when proper signs are posted with a warning flasher or flashers in operation. It shall be unlawful for any person to violate any such special speed limit enacted and in effect in accordance with this paragraph.

When the board of mayor and aldermen has not established special speed limits as provided for above, any person who shall drive at a speed exceeding fifteen (15) miles per hour when passing a school during a recess period when a warning flasher or flashers are in operation, or during a period of forty (40) minutes before the opening hour of a school or a period of forty (40) minutes after the closing hour of a school, while children are actually going to or leaving school, shall be prima facie guilty of reckless driving. (1980 Code, § 9-203)

15-304. In congested areas. It shall be unlawful for any person to operate or drive a motor vehicle through any congested area at a rate of speed in excess of any posted speed limit when such speed limit has been posted by authority of the town. (1980 Code, § 9-204)

15-305. <u>On specific streets</u>. The following speed limits shall be set on the streets named herein:

Hillcrest 15, mph
Old 11E, 25 mph
Duty Drive, 25 mph
Harr Drive, 15 mph
Neal Drive, 15 mph
Ridgeview Circle, 15 mph
Jarrell Drive, 15 mph
Woodland Drive, 15 mph
Dogwood Hill, 15 mph
Elizabethton Highway, 35 mph
Highway 19E from .2 of a mile west of the intersection of Old Elizabethton Highway and 19E to the intersection with Highway 11E, 45 mph
19E from the .2 of a mile west of the intersection of Old Elizabethton Highway and 19E to the Carter County line, 55 mph
Route 44 from the intersection with 19E to the intersection with 11E, 35 mph
Route 44 from Lakeview Drive to the intersection with Highway 19E, 45 mph
Highway 44/Highway 390, from Lakeview Drive to the Holston River bridge, 35 mph
Lakeview Drive, 30 mph
Fleming Drive, 15 mph
Railroad Street from Fleming Drive to the city garage, 25 mph
Highland Drive, 15 mph
Lakeview Circle, 15 mph
Highland Circle, 15 mph
Jonesboro Drive, 25 mph except as noted herein below from 238 Jonesboro Drive to 340 Jonesboro Drive, 15 mph
Fox Drive, 15 mph
From Cedar Street from Jonesboro Road to Maple Street, 15 mph
From Cedar Street to Maple Street, 15 mph
From Cedar Street from Carter Street to E Street, 15 mph
From Carter Street from Main Street to Old Elizabethton Highway, 15 mph
Kentucky, 15 mph
Summit Drive, 15 mph
Smith Street, 15 mph
East E. Street, 15 mph
McClellan Street, 15 mph
Smith Street Ext., 15mph
Arnold Road, 15 mph

Main Street, 25 mph
Holston Drive, 25 mph
Bridge Street, 10 mph
Railroad Street from Maple to Fleming, 15 mph
Hill Street, 15 mph
Union Street, 15 mph
Parks Worley Road, 15 mph
Cherokee Drive, 15 mph
Shawnee Drive, 15 mph
Mill Street, 15 mph
Pineola Avenue, 15 mph
Morning View Drive, 15 mph.
Highway 11E from the middle of the Charlie Worley Bridge to Pardner's Bar-B-Que and Steak Restaurant, Inc., 55 miles per hour
Highway 11E from Pardner's Bar-B-Que and Steak Restaurant, Inc., to the Piney Flats crossroads, 45 miles per hour.

(Ord. #97-009, Sept. 1997, as amended by Ord. #2000-012, Sept. 2000; Ord. #2002-06, Aug. 2002; and Ord. #2004-009, Oct. 2004)

CHAPTER 4

TURNING MOVEMENTS

SECTION

15-401. Generally. No person operating a motor vehicle shall make any turning movement which might affect any pedestrian or the operation of any other vehicle without first ascertaining that such movement can be made in safety and signaling his intention in accordance with the requirements of the state law.[1] (1980 Code, § 9-301)

15-402. Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right hand curb or edge of the roadway. (1980 Code, § 9-302)

15-403. Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of the intersection of the center line of the two roadways. (1980 Code, § 9-303)

15-404. Left turns on other than two-way roadways. At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left hand lane lawfully available to traffic moving in such direction upon the roadway being entered. (1980 Code, § 9-304)

15-405. U-turns. U-turns are prohibited. (1980 Code, § 9-305)

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[1]State law reference
Tennessee Code Annotated, § 55-8-143.

CHAPTER 5

STOPPING AND YIELDING

SECTION

15-501. [Deleted.] (1980 Code, § 9-401, as deleted by Ord. #2006-014, Aug. 2006)

15-502. When emerging from alleys, etc. The drivers of all vehicles emerging from alleys, parking lots, driveways, or buildings shall stop such vehicles immediately prior to driving onto any sidewalk or street. They shall not proceed to drive onto the sidewalk or street until they can safely do so without colliding or interfering with approaching pedestrians or vehicles. (1980 Code, § 9-402)

15-503. To prevent obstructing an intersection. No driver shall enter any intersection or marked crosswalk unless there is sufficient space on the other side of such intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of traffic in or on the intersecting street or crosswalk. This provision shall be effective notwithstanding any traffic-control signal indication to proceed. (1980 Code, § 9-403)

15-504. At railroad crossings. Any driver of a vehicle approaching a railroad grade crossing shall stop within not less than fifteen (15) feet from the nearest rail of such railroad and shall not proceed further while any of the following conditions exist:

(1) A clearly visible electrical or mechanical signal device gives warning of the approach of a railroad train.

(2) A crossing gate is lowered or a human flagman signals the approach of a railroad train.

(3) A railroad train is approaching within approximately fifteen hundred (1500) feet of the highway crossing and is emitting an audible signal indicating its approach.

(4) An approaching railroad train is plainly visible and is in hazardous proximity to the crossing. (1980 Code, § 9-404)

15-505. At "stop" signs. The driver of a vehicle facing a "stop" sign shall bring his vehicle to a complete stop immediately before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, then immediately before entering the intersection, and shall remain standing until he can proceed through the intersection in safety. (1980 Code, § 9-405)

15-506. At "yield" signs. The drivers of all vehicles shall yield the right of way to approaching vehicles before proceeding at all places where "yield" signs have been posted. (1980 Code, § 9-406)

15-507. At traffic-control signals generally. Traffic-control signals exhibiting the words "Go," "Caution," or "Stop," or exhibiting different colored lights successively one at a time, or with arrows, shall show the following colors only and shall apply to drivers of vehicles and pedestrians as follows:

(1) Green alone, or "Go":

(a) Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

(b) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(2) Steady yellow alone, or "Caution":

(a) Vehicular traffic facing the signal is thereby warned that the red or "Stop" signal will be exhibited immediately thereafter, and such vehicular traffic shall not enter or be crossing the intersection when the red or "Stop" signal is exhibited.

(b) Pedestrians facing such signal shall not enter the roadway.

(3) Steady red alone, or "Stop":

(a) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or "Go" is shown alone. Provided, however, that a right turn on a red signal shall be permitted at all intersections within the town, provided that the prospective turning car comes to a full and complete stop before turning and that the turning car yields the right of way to pedestrians and cross traffic traveling in accordance with their traffic signal. However, said turn will not endanger other traffic lawfully using said intersection. A right turn on red shall be permitted at all intersections except those clearly marked by a "No Turns On Red" sign, which may be erected by the

town at intersections which the town decides require no right turns on red in the interest of traffic safety.

(b) Pedestrians facing such signal shall not enter the roadway.

(4) Steady red with green arrow:

(a) Vehicular traffic facing such signal may cautiously enter the intersection only to make the movement indicated by such arrow but shall yield the right-of-way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection.

(b) Pedestrians facing such signal shall not enter the roadway.

(5) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made a vehicle length short of the signal. (1980 Code, § 9-407)

15-508. At flashing traffic-control signals. (1) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal placed or erected in the town, it shall require obedience by vehicular traffic as follows:

(a) Flashing red (stop signal). When a red lens is illuminated with intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(b) Flashing yellow (caution signal). When a yellow lens is illuminated with intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

(2) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules set forth in § 15-504 of this code. (1980 Code, § 9-408)

15-509. Stops to be signaled. No person operating a motor vehicle shall stop such vehicle, whether in obedience to a traffic sign or signal or otherwise, without first signaling his intention in accordance with the requirements of the state law,[1] except in an emergency. (1980 Code, § 9-409)

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[1]State law reference

Tennessee Code Annotated, § 55-8-143.

CHAPTER 6

PARKING

SECTION

15-601. Generally. No person shall leave any motor vehicle unattended on any street without first setting the brakes thereon, stopping the motor, removing the ignition key, and turning the front wheels of such vehicle toward the nearest curb or gutter of the street.

Except as hereinafter provided, every vehicle parked upon a street within the Town of Bluff City shall be so parked that its right wheels are approximately parallel to and within eighteen (18) inches of the right edge or curb of the street. On one-way streets where the town has not placed signs prohibiting the same, vehicles may be permitted to park on the left side of the street, and in such cases the left wheels shall be required to be within eighteen (18) inches of the left edge or curb of the street.

Notwithstanding anything else in this code to the contrary, no person shall park or leave a vehicle parked on any public street or alley within the fire limits between the hours of 1:00 A.M. and 5:00 A.M. or on any other public street or alley for more than seventy-two (72) consecutive hours without the prior approval of the chief of police.

Furthermore, no person shall wash, grease, or work on any vehicle, except to make repairs necessitated by an emergency, while such vehicle is parked on a public street. (1980 Code, § 9-501)

15-602. Angle parking. On those streets which have been signed or marked by the town for angle parking, no person shall park or stand a vehicle other than at the angle indicated by such signs or markings. No person shall angle park any vehicle which has a trailer attached thereto or which has a length in excess of twenty-four (24) feet. (1980 Code, § 9-502)

15-603. Occupancy of more than one space. No person shall park a vehicle in any designated parking space so that any part of such vehicle occupies more than one such space or protrudes beyond the official markings on the street or curb designating such space unless the vehicle is too large to be parked within a single designated space. (1980 Code, § 9-503)

15-604. Where prohibited. No person shall park a vehicle in violation of any sign placed or erected by the state or town, nor:

(1) On a sidewalk.

(2) In front of a public or private driveway.

(3) Within an intersection or within fifteen (15) feet thereof.

(4) Within fifteen (15) feet of a fire hydrant.

(5) Within a pedestrian crosswalk.

(6) Within fifty (50) feet of a railroad crossing.

(7) Within twenty (20) feet of the driveway entrance to any fire station, and on the side of the street opposite the entrance to any fire station within seventy-five (75) feet of the entrance.

(8) Alongside or opposite any street excavation or obstruction when other traffic would be obstructed.

(9) On the roadway side of any vehicle stopped or parked at the edge or curb of a street.

(10) Upon any bridge.

(11) Alongside any curb painted yellow or red by the town.

(12) Parking shall be prohibited in a fire lane so designated and marked or painted by the Town of Bluff City, Tennessee.

(13) Parking shall be prohibited on main Street in the Town of Bluff City, Tennessee between the hours of 6:00 P.M. and 7:00 A.M. for any vehicle used primarily for commercial purposes.

(14) Parking shall be prohibited on McClelland Lane in the Town of Bluff City, Tennessee.

(15) Parking shall be prohibited on that portion of Kentucky Avenue which lies between Carter Street and Summit Drive in the Town of Bluff City, Tennessee. (1980 Code, § 9-504, as amended by Ord. #97-014, Nov. 1997, Ord. #2005-002, March 2005, Ord. #2007-003, July 2007, and Ord. #2007-004, July 2007)

15-605. Loading and unloading zones. No person shall park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers or merchandise in any place marked by the town as a loading and unloading zone. (1980 Code, § 9-505)

15-606. 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. (1980 Code, § 9-506)

CHAPTER 7

ENFORCEMENT

SECTION

15-701. Issuance of traffic citations.[1] When a police officer halts a traffic violator other than for the purpose of giving a warning, and does not take such person into custody under arrest, he shall take the name, address, and operator's license number of said person, the license number of the motor vehicle involved, and such other pertinent information as may be necessary, and shall issue to him a written traffic citation containing a notice to answer to the charge against him in the city court at a specified time. The officer, upon receiving the written promise of the alleged violator to answer as specified in the citation, shall release such person from custody. It shall be unlawful for any alleged violator to give false or misleading information as to his name or address. (1980 Code, § 9-601)

15-702. Failure to obey citation. It shall be unlawful for any person to violate his written promise to appear in court after giving said promise to an officer upon the issuance of a traffic citation, regardless of the disposition of the charge for which the citation was originally issued. (1980 Code, § 9-602)

15-703. Illegal parking. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, the officer finding such vehicle shall take its license number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a citation for the driver and/or owner to answer for the violation within ten (10) days during the hours and at a place specified in the citation. (1980 Code, § 9-603, modified)

15-704. Impoundment of vehicles. Members of the police department are hereby authorized, when reasonably necessary for the security of the vehicle or to prevent obstruction of traffic, to remove from the streets and impound any

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[1]State law reference
Tennessee Code Annotated, § 7-63-101, et seq.

vehicle whose operator is arrested or any unattended vehicle which is parked so as to constitute an obstruction or hazard to normal traffic. Any impounded vehicle shall be stored until the owner or other person entitled thereto, claims it, gives satisfactory evidence of ownership or right to possession, and pays all applicable fees and costs, or until otherwise lawfully disposed of. The fee for impounding a vehicle shall be five dollars ($5.00) and the storage cost shall be one dollar ($1.00) for each twenty-four (24) hour period or fraction thereof that the vehicle is stored. (1980 Code, § 9-604)

15-705. Disposal of abandoned motor vehicles. "Abandoned motor vehicles," as defined in Tennessee Code Annotated, § 55-16-103, shall be impounded and disposed of by the police department in accordance with the provisions of Tennessee Code Annotated, §§ 55-16-103 through 55-16-109. (1980 Code, § 9-605)

15-706. Violation and penalty. Any violation of this title shall be a civil offense punishable as follows: (1) Traffic citations. Traffic citations shall be punishable by a civil penalty up to fifty dollars ($50.00) for each separate offense.

(2) Parking citations. For parking violations, the offender may waive his right to a judicial hearing and have the charges disposed of out of court but the fine shall be ten dollars ($10.00). (1980 Code, § 9-603, modified)

CHAPTER 8

TRAFFIC CONTROL PHOTOGRAPHIC SYSTEMS

SECTION

15-801. Definitions. The following words, terms and phrases, when used herein, shall have ascribed to them the following meanings, except where the context clearly indicates a different meaning.

(1) "Citations and warning notices" shall mean the documents of notice of violation and shall include:

(a) The name and address of the registered owner of the vehicle;

(b) The registration plate number of the motor vehicle involved in the violation;

(c) The violation charged;

(d) The location of the violation;

(e) The date and time of the violation;

(f) A copy of the recorded image;

(g) The amount of the civil penalty imposed and the date by which the civil penalty should be paid;

(h) A sworn statement signed by an office or contractor of the Town of Bluff City Police Department that based on inspection, the subject motor vehicle was being operated in violation of the applicable enumerated section(s) of the Bluff City Municipal Code; and

(i) Information advising the person alleged to be liable for violations of the enumerated sections(s) of the Bluff City Municipal Code of the manner and time in which the liability alleged in the citation may be contested in city court, and warning that failure to contest in the manner and time provided shall be deemed an admission of liability and that a default judgment may be entered thereon.

(b) "Recorded images" means images recorded by a traffic control photographic system.

(a) On a photograph, microphotograph, electronic image, videotape, or any other medium; and

(b) At least one (1) image or portion of tape, clearly identifying the registration plate number, or other identifying designation of the license plate, on the motor vehicle.

(3) "System location" is on the roadway, or the approach to an intersection toward which a traffic control photographic system device, including

but not limited to a photographic video, or electronic camera, is directed and is in operation.

(4) "Traffic control photographic system" is an electronic system consisting of a photographic, video or electronic camera and a vehicle sensor installed to work on a roadway for speed enforcement, or in conjunction with an official traffic control sign, signal or device, and to automatically produce photographs, video or digital images of each vehicle violating a standard traffic control sign, signal or device.

(5) "Vehicle owner" is the person identified on records maintained by the State of Tennessee and other states, department of safety, as registered owner of a motor vehicle. (as added by Ord. #2009-002, April 2009)

15-802. Administration. (1) The Bluff City Police Department shall administer the traffic control photographic and video system and shall maintain a list of all system locations where traffic control photographic systems are installed. The town may contract with third parties to perform administrative and clerical functions.

(2) No third party contractor shall have to be authority to issue citations and no citations shall issue except upon review of the photograph(s), digital and/or video images by the Bluff City Police Department. Upon review of such images by the Bluff City Police Department, on each case, and upon express approval for the issuance of a citation by the Bluff City Police Department, a third party contractor may perform the ministerial functions of preparing, mailing, serving and/or processing citations.

(3) Signs to indicate the use of the traffic control photographic and video system may be clearly posted in the discretion of the Bluff City Police Department.

(4) All fines paid and/or collected shall be paid to the Town of Bluff City, Tennessee.

(5) The Town of Bluff City, Tennessee: shall have all necessary power and authority to contractually provide for the purchase, lease, rental, acquisition and/or to enter a service contract(s) so as to fully and necessarily implement the provisions of the traffic control photographic system authorized hereby. (as added by Ord. #2009-002, April 2009)

15-803. Offense. (1) It shall be unlawful for any vehicle to travel through a system location at a rate of speed in excess of that rate of speed established or posted for any such system location(s).

(2) It shall be unlawful for a vehicle to cross the stop line at a system location, in disregard or disobedience of the traffic control sign, signal or devise at such location, or to otherwise violate any section of the Bluff City Municipal Code with respect to obedience to traffic lights, stop signs or traffic signals. (as added by Ord. #2009-002, April 2009)

15-804. Procedure. (1) The town shall adopt procedures for the issuance of uniform citations and, if deemed appropriate, warning notices hereunder. Such system may include the use of third party contractors to perform ministerial tasks.

(2) A citation or warning notice so issued, alleging an offense hereunder in violation of § 15-803 of the Bluff City Municipal Code, which is sworn to or affirmed by an officer of the Bluff City Police Department based on inspection of records, images produced by the traffic control photographic systems and which includes copies of such recorded images shall be prima facie evidence of the facts contained therein and shall be admissible in any proceeding alleging a violation hereunder. The citation or warning notice shall be forwarded by first-class mail, within twenty (20) business days after the occurrence of the violation, absence exigent circumstances arising from registration irregularities to the vehicle owner's address as given on the motor vehicle registration records maintained by the State of Tennessee Department of Safety and other state motor vehicle registration departments. Personal delivery to or personal service of process on the owner of the vehicle will not be required.

(3) A person who receives a citation or warning notice may:

(a) Pay the accessed fine and civil penalty, in accordance with instructions on the citation.

(b) Elect to contest the citation for the alleged violation.

(4) Liability hereunder shall be determined based upon preponderance of the evidence. Admission into evidence of a citation or warning notice, together with proof that the defendant was at the time of the violation the registered owner of the vehicle, shall permit the trier of fact in its discretion to infer that such owner of the vehicle was the driver of the vehicle at the time of the alleged violation. Such an inference may be rebutted if the owner of the vehicle:

(a) Testifies under oath in open court that he or she was not the operator of the vehicle at the time of the alleged violation; and

(b) Submits to the court prior to the return date established on the citation and warning notice the owner's sworn notarized statement that the vehicle was in the care, custody or control of another person or entity at the time of the violation and accurately identifying the name and accurately stating the current address and relationship to or affiliation with the owner, of the person or entity who leased, rented or otherwise had such possession of the vehicle at the time of the alleged violation; or

(c) Presents to the court prior to the return date established on the citation and warning notice a certified copy of a police report showing that the vehicle had been reported to the police as stolen prior to the time of the alleged violation. (as added by Ord. #2009-002, April 2009, and amended by Ord. #2011-027, Jan. 2012)

15-805. Penalty. (1) Any offense hereunder shall be deemed a non-criminal violation for which a civil penalty of fifty dollars ($50.00) shall be assessed. Court costs of seventy-five dollars ($75.00) shall be assessed only if the person cited does not prevail in court or fails to appear. Failure to pay the civil penalty or appear in court to contest the citation or warning notice on the designated date shall result in the imposition of the stated fine by default, and court costs if applicable, as otherwise provided for by ordinance for citations to the City Court of the Town of Bluff City, Tennessee. The town may establish procedures for the trial of civil violators and may enforce and collect all penalties in the nature of a debt as otherwise provided by law.

(2) All revenues generated from penalties and assessments associated with the enforcement of this chapter shall go into the general fund.

(3) A violation for which a civil penalty is imposed hereunder shall not be considered a moving violation and may not be recorded by the division of police services or the Tennessee Department of Safety on the driving record of the owner or driver of the vehicle and may not be considered in the provision of motor vehicle insurance coverage.

(4) All recorded images generated by the traffic control photographic system, including, but not limited to photographs, electronic images, and videotape, shall be solely owned by the Town of Bluff City, Tennessee. (as added by Ord. #2009-002, April 2009, and amended by Ord. #2010-011, Dec. 2010, Ord. #2011-027, Jan. 2012, and Ord. #2013-011, Dec. 2013)

TITLE 16

STREETS AND SIDEWALKS, ETC[1]

CHAPTER

CHAPTER 1

MISCELLANEOUS

SECTION

16-101. Obstructing streets, alleys, or sidewalks prohibited. No person shall use or occupy any portion of any public street, alley, sidewalk, or right of way for the purpose of storing, selling, or exhibiting any goods, wares, merchandise, or materials. (1980 Code, § 12-101)

16-102. Trees projecting over streets, etc., regulated. It shall be unlawful for any property owner or occupant to allow any limbs of trees on his property to project over any street or alley at a height of less than fourteen (14) feet or over any sidewalk at a height of less than eight (8) feet. (1980 Code, § 12-102)

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[1]Municipal code reference
Related motor vehicle and traffic regulations: title 15.

16-103. Trees, etc., obstructing view at intersections prohibited. It shall be unlawful for any property owner or occupant to have or maintain on his property any tree, shrub, sign, or other obstruction which prevents persons driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. (1980 Code, § 12-103)

16-104. Banners and signs across streets and alleys restricted. It shall be unlawful for any person to place or have placed any banner or sign across any public street or alley except when expressly authorized by the board of mayor and aldermen after a finding that no hazard will be created by such banner or sign. (1980 Code, § 12-104)

16-105. Gates or doors opening over streets, alleys, or sidewalks prohibited. It shall be unlawful for any person owning or occupying property to allow any gate or door to swing open upon or over any street, alley, or sidewalk except when required by law. (1980 Code, § 12-105)

16-106. Littering streets, alleys, or sidewalks prohibited. It shall be unlawful for any person to litter, place, throw, track, or allow to fall on any street, alley, or sidewalk any refuse, glass, tacks, mud, or other objects or materials which are unsightly or which obstruct or tend to limit or interfere with the use of such public ways and places for their intended purposes. (1980 Code, § 12-106)

16-107. Obstruction of drainage ditches. It shall be unlawful for any person to permit or cause the obstruction of any drainage ditch in any public right of way. (1980 Code, § 12-107)

16-108. Abutting occupants to keep sidewalks clean, etc. The occupants of property abutting on a sidewalk are required to keep the sidewalk clean. Also, immediately after a snow or sleet, such occupants are required to remove all accumulated snow and ice from the abutting sidewalk. (1980 Code, § 12-108)

16-109. Parades, etc., regulated. It shall be unlawful for any person, club, organization, or similar group to hold any meeting, parade, demonstration, or exhibition on the public streets without some responsible representative first securing a permit from the recorder. No permit shall be issued by the recorder unless such activity will not unreasonably interfere with traffic and unless such representative shall agree to see to the immediate cleaning up of all litter which shall be left on the streets as a result of the activity. Furthermore, it shall be unlawful for any person obtaining such a permit to fail to carry out his agreement to clean up the resulting litter immediately. (1980 Code, § 12-109)

16-110. Operation of trains at crossings regulated. No person shall operate any railroad train across any street or alley without giving a warning of its approach as required by state law. It shall be unlawful to stop a railroad train so as to block or obstruct any street or alley for a period of more than five (5) consecutive minutes. (1980 Code, § 12-110, modified)

16-111. Animals and vehicles on sidewalks. It shall be unlawful for any person to ride, lead, or tie any animal, or ride, push, pull, or place any vehicle across or upon any sidewalk in such manner as unreasonably interferes with or inconveniences pedestrians using the sidewalk. It shall also be unlawful for any person knowingly to allow any minor under his control to violate this section. (1980 Code, § 12-111)

16-112. Fires in streets, etc. It shall be unlawful for any person to set or contribute to any fire in any public street, alley, or sidewalk. (1980 Code, § 12-112)

16-113. Skateboards, etc. prohibited on streets, sidewalks and other public places. (1) It shall be unlawful for any person to use roller skates, coasters, skateboards, or any similar vehicle or toy article on wheels or a runner on any public street, roadway, alley, sidewalk, or other public building or public place, except in such areas as may be specifically designated for such purposes by the board of mayor and aldermen.

(2) It shall also be unlawful for any person to knowingly allow any minor under their control to violate this section.

(3) The vehicles described in subsection (1) of this section shall be subject to impoundment if a violation occurs. After the first impoundment of said vehicle the parent or responsible adult can pick-up the impounded vehicle from the Bluff City Police Department between the hours of 8:00 A.M. and 4:30 P.M. Monday--Friday.

(4) Bicycles and tricycles are specifically excluded from this section. However, bicycles shall not be ridden on sidewalks unless they are equipped with training wheels and a child is in the process of learning to ride a bicycle.

(5) That § 16-113 of the Bluff City Municipal Code shall not apply to residential municipal streets where the speed limit is fifteen miles per hour (15 mph) or less. (as added by Ord. #2006-005, July 2006, and amended by Ord. #2011-016, Sept. 2011)

CHAPTER 2

EXCAVATIONS AND CUTS[1]

SECTION

16-201. Permit required. It shall be unlawful for any person, firm, corporation, association, or others, to make any excavation in any street, alley, or public place, or to tunnel under any street, alley, or public place without having first obtained a permit as herein required, and without complying with the provisions of this chapter; and it shall also be unlawful to violate, or vary from, the terms of any such permit; provided, however, any person maintaining pipes, lines, or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately and a permit cannot reasonably and practicably be obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the office of the recorder is open for business, and said permit shall be retroactive to the date when the work was begun. (1980 Code, § 12-201)

16-202. Fee. The fee for such permits shall be five dollars ($5.00) for excavations which do not exceed twenty-five (25) square feet in length; and twenty-five cents ($.25) for each additional square foot in the case of excavations, or lineal foot in the case of tunnels; but not to exceed one hundred dollars ($100.00) for any permit. (1980 Code, § 12-202)

16-203. Manner of excavating--barricades and lights--temporary sidewalks. Any person, firm, corporation, association, or others making any excavation or tunnel shall do so according to the terms and conditions of the application and permit authorizing the work to be done. Sufficient and proper barricades and lights shall be maintained to protect persons and property from injury by or because of the excavation being made. If any sidewalk is blocked

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[1]State law reference

This chapter was patterned substantially after the ordinance upheld by the Tennessee Supreme Court in the case of City of Paris, Tennessee v. Paris-Henry County Public Utility District, 207 Tenn. 388, 340 S.W.2d 885 (1960).

by any such work, a temporary sidewalk shall be constructed and provided which shall be safe for travel and convenient for users. (1980 Code, § 12-203)

16-204. Restoration of streets, etc. Any person, firm, corporation, association, or others making any excavation or tunnel in or under any street, alley, or public place in the Town of Bluff City shall restore said street, alley, or public place to its original condition except for the surfacing, which shall be done by the town, but shall be paid for promptly upon completion by such person, firm, corporation, association, or others for which the excavation or tunnel was made. In case of unreasonable delay in restoring the street, alley, or public place, the recorder shall give notice to the person, firm, corporation, association, or others that unless the excavation or tunnel is refilled properly within a specified reasonable period of time, the town will do the work and charge the expense of doing the same to such person, firm, corporation, association, or others. If within the specified time the conditions of the above notice have not been complied with, the work shall be done by the town, an accurate account of the expense involved shall be kept, and the total cost shall be charged to the person, firm, corporation, association, or others who made the excavation or tunnel. (1980 Code, § 12-204)

16-205. Insurance. Each person applying for an excavation permit shall file a certificate of insurance indicating that he is insured against claims for damages for personal injury as well as against claims for property damage which may arise from or out of the performance of the work, whether such performance be by himself, his subcontractor, or anyone directly or indirectly employed by him. Such insurance shall cover collapse, explosive hazards, and underground work by equipment on the street, and shall include protection against liability arising from completed operations. The amount of the insurance shall be prescribed by the recorder in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than $100,000 for each person and $300,000 for each accident, and for property damages not less than $25,000 for any one (1) accident, and a $75,000 aggregate. (1980 Code, § 12-205)

TITLE 17

REFUSE AND TRASH DISPOSAL[1]

CHAPTER 1

REFUSE

17-101. Definitions. The following terms are defined as set out herein:

(1) "Garbage." Organic waste matter decaying or discarded foodstuffs, both animal or vegetable, and all tin cans, glassware, etc., resulting from the transportation, handling or preparation of food, empty boxes, crates, barrels, kegs, paper and rags.

(2) "Household trash." Waste accumulation of paper, sweepings, dust, rags, bottles, cans or other matter of any kind, other than garbage, which is usually attendant to housekeeping.

(3) "Producer." Either the person responsible for the trash or garbage, or the occupant of the place or building in which such is produced or in which the person responsible for such has a place of business or residence.

(4) "Trash." Crates, barrels, kegs, excelsior, etc., and any other waste material not including garbage, ashes, industrial waste and builder's refuse.

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[1]Municipal code reference
Property maintenance regulations: title 13.

(5) "Refuse." Shall mean and include leaves and brush except for dead animals, body waste, hot ashes, rocks, concrete, bricks, and similar materials are expressly excluded from any of the terms in this section.

(6) The intent of this section is to exclude from the definitions of trash, garbage, and domestic waste which is collected manually by municipal workers for transport to a sanitary landfill, all waste and refuse generated by commercial or industrial enterprises which may pose a health hazard to municipal employees in the event they come into direct contact with the solid waste or which present difficulties in the physical handling and lifting of bags and containers in which the solid wastes are deposited. (Ord. #93-010, Jan. 1994)

17-102. Premises to be kept clean. All persons within the town are required to keep their premises in a clean and sanitary condition, free from accumulations of refuse. (1980 Code, § 8-202)

17-103. Storage. Each owner, occupant, or other responsible person using or occupying any building or other premises within the Town of Bluff City where refuse accumulates or is likely to accumulate, shall provide and keep covered an adequate number of refuse containers. The refuse containers shall be strong, durable, and rodent and insect proof. They shall each have a capacity of not less than twenty (20) nor more than thirty-two (32) gallons. (1980 Code, § 8-203)

17-104. Collection. All refuse accumulated within the corporate limits shall be collected, conveyed, and disposed of under the supervision of such officer as the board of mayor and aldermen shall designate. Collections shall be made regularly in accordance with an announced schedule. (1980 Code, § 8-204)

17-105. Depositing trash, etc., on property prohibited. (1) The depositing or discarding of any trash, garbage, or litter, whether contained, bagged or loose, on any public property within the municipal limits is hereby prohibited. Private individuals are hereby prohibited from depositing their privately generated trash in public containers located in the city's public parks. Public notice of this prohibition shall be posted where practicable but the absence of such posting shall not be a defense to the violation of this section.

(2) Each separate violation of this section shall be punished and penalized by the assessment of a fine not to exceed $50.00 plus applicable court costs. (Ord. #93-003, April 1993)

17-106. Landfill fees and charges. The board of mayor and aldermen may assess such fees as are necessary from time to time in order to defray any disposal surcharges which may be imposed by any owner or operator of the sanitary landfill which accepts the city's garbage or trash and may assess such

fees as are necessary to defray the expense of collecting and hauling any commercial or industrial trash which can be collected in approved dumpsters utilized by commercial/industrial enterprises in the town. (Ord. #93-010, Jan. 1994)

17-107. Disposal of garbage and household trash of domestic producers. (1) Garbage and household trash shall be placed by the domestic producer (or commercial/industrial producer if permitted pursuant to the terms of this chapter) in closed garbage bags and then deposited in sealed plastic containers or sealed metal cans for town pick-up. The containers or cans shall be no greater than thirty-two (32) gallons in capacity and shall be equipped with permanent handles. The necessary garbage bags and sealed containers shall be furnished and kept in repair by the domestic producer. Larger items such as paper boxes and other non-organic items do not have to be bagged or sealed but shall not have other trash deposited in them and shall be tied or otherwise secured for city pick-up. The domestic producer shall provide sufficient container space to hold one (1) week's accumulation of garbage and household trash.

(2) City employees shall remove the domestic garbage and trash from the containers by the bag whenever possible. In the event a producer does not place his garbage and trash in closed plastic garbage bags and set the bags in a sealed container, the town shall refuse pick-up service to him/her. Appropriately bagged and contained garbage and household trash shall be removed by the town from each domestic producer once each week. (Ord. #93-010, Jan. 1994)

17-108. Commercial/industrial waste, trash, and garbage. (1) Commercial and industrial enterprises and operations within the municipal limits shall make whatever commercial arrangements are appropriate to privately pick-up and dispose of all waste, trash, and garbage generated by each commercial and industrial enterprise. Storage of any commercial and industrial waste, trash, or garbage prior to pick-up by a private hauler shall be stored in secure containers which are designed to, and do prevent the development of any nuisance on the property from unsecured trash, refuge, or garbage and to prevent the release of said waste into the environment by wind, rain, tampering by animals, etc.

(2) Each commercial or industrial enterprise within the town shall advise the town of the identity and address of the private contractor or hauler who is providing trash and garbage pick-up to the commercial or industrial enterprise.

(3) Each commercial/industrial enterprise must, if the refuse or trash is placed out-of-doors, package said refuse or trash in a sealed container to prevent the release of said refuse into the environment by wind, rain, animals, etc. (Ord. #94-010, Nov. 1994)

17-109. Liquid wastes. The disposal of or placing of any liquid waste or effluent generated by any commercial or industrial enterprise into any container for collection by the town is hereby prohibited. The intent of this provision is to comply with all requirements of the Environmental Protection Agency and the State of Tennessee with regard to the transportation and disposal of liquids generated during any type of manufacturing or industrial process. Each commercial and industrial enterprise within the town shall advise the town in writing of any liquid generated during its commercial or industrial operations so that the town may assist the business in locating appropriate disposal facilities for its liquid wastes. (Ord. #93-010, Jan. 1994)

17-110. Used petroleum products. (1) All domestic and commercial generators of garbage, trash, refuse, and other solid or liquid waste within the municipal limits are expressly prohibited from depositing used motor oil, used oil filters, used transmission fluid, and used petroleum products of any kind, in any container for collection and transportation by the town to any sanitary solid waste landfill. All commercial enterprises within the town which generate or collect used petroleum products and/or parts contaminated with used petroleum products are also subject to the provisions of the "Used Oil Collection Act of 1993, codified at Tennessee Code Annotated, § 68-211-1001 et seq. and are required to comply with the terms of state law regarding the disposal of used petroleum products at appropriate collection centers.

(2) No person or business entity shall discharge any liquid waste generated by any commercial or industrial activity directly into the environment within the municipal limits of the town without first complying with all federal and state regulations affecting said discharge. No person or business entity shall dispose of any used petroleum products in any manner except as provided by the "Used Oil Collection Act of 1993." No person or business entity shall allow used petroleum products to flow, drain, or otherwise escape into the environment prior to their proper disposal as specified by state law. (Ord. #93-010, Jan. 1994)

17-111. Garbage collection fee. (1) A garbage collection fee of nine dollars ($9.00) per month shall be charged to each residential customer within the corporate limits. However, those property owners whose parcel is not one hundred percent (100%) within the town limits shall have the option of taking the garbage service or not as the case may be. The domestic garbage collection fee shall be included on every customer's monthly water and sewer bill or on a separate bill for those who are not served by city water and/or sewer.

(2) The failure of any residential customer to pay for each of the utility charges as billed shall result in the termination of water service to that resident or business pursuant to the terms of the ordinances of the town which require termination of water service for non-payment of that service.

(3) Households which currently do not receive town water shall be billed on a monthly basis for the garbage pick-up service. If a delinquency in the monthly garbage collection fee exists in excess of two (2) months garbage collection service shall be terminated to said household.

(4) In the event that the town must institute legal proceedings in order to collect any unpaid utility bills including unpaid garbage collection bills, the delinquent resident shall also be charged a reasonable attorney's fees and court costs. (Ord. #94-010, Nov. 1994, as amended by Ord. #2000-016, Dec. 2000, Ord. #2007-008, Aug. 2007, Ord. #2008-016, Feb. 2009, and Ord. #2013-009, Sept. 2013)

17-112. Penalty. A violation of the terms of this chapter shall be punishable by a fine not to exceed fifty dollars ($50.00) for each day that the generator/producer of garbage, trash, refuse, or liquid industrial waste or used petroleum products fails to comply with the terms of this chapter. (Ord. #93-010, Jan. 1994)

17-113. Collection of brush from residential customers. (1) Each residential customer shall get one free brush pick-up per month without charge.

(2) No grass clippings will be picked up.

(3) The size of brush shall be no larger than two inches (2") in diameter.

(4) All brush shall be deposited curb side by the residential customer for pick-up by the town and shall not be placed in any part of the street.

(5) After the residential customer has been credited with the one free brush pick-up per month, each additional load shall be picked-up at a rate of seven dollars and fifty cents ($7.50) per load. (Ord. #97-003, May 1997, as amended by Ord. #97-008, Aug. 1997)

17-114. Collection of brush from commercial customers. (1) Each commercial customer shall get one (1) free brush pick-up per year without charge on an improved commercial lot.

(2) No grass clippings will be picked up.

(3) The size of the brush shall be no larger than two inches (2") in diameter.

(4) All brush shall be deposited curb side by the commercial customer for pick-up by the town and shall not be placed in any part of the street or highway.

(5) This section shall apply to developed commercial lots only. In other words, undeveloped commercial lots are specifically excluded for this service. (as added by Ord. #2008-002, March 2008)

TITLE 18

WATER AND SEWERS[1]

CHAPTER

CHAPTER 1

WATER AND SEWERS

SECTION

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[1]Municipal code references
Building, utility and housing codes: title 12.
Refuse disposal: title 17.

18-101. Application and scope. The provisions of this chapter are a part of all contracts for receiving water and/or sewer service from the town and shall apply whether the service is based upon contract, agreement, signed application, or otherwise. (1980 Code, § 13-101)

18-102. Definitions. (1) "Customer" means any person, firm, or corporation who receives water and/or sewer service from the town under either an express or implied contract.

(2) "Household" means any two (2) or more persons living together as a family group.

(3) "Service line" shall consist of the pipe line extending from any water or sewer main of the town to private property. Where a meter and meter box are located on private property, the service line shall be construed to include the pipe line extending from the town's water main to and including the meter and meter box.

(4) "Discount date" shall mean the date ten (10) days after the date of a bill, except when some other date is provided by contract. The discount date is the last date upon which water and/or sewer bills can be paid at net rates.

(5) "Dwelling" means any single structure, with auxiliary buildings, occupied by one or more persons or households for residential purposes.

(6) "Premise" means any structure or group of structures operated as a single business or enterprise, provided, however, the term "premise" shall not include more than one (1) dwelling.

(7) "Utility service" as used in this code title shall mean either municipal water service and/or municipal sewer service. (1980 Code, § 13-102, as amended by Ord. #91-032, Aug. 1991)

18-103. Obtaining service. Each customer who requests connection to the town's water and/or sewer system shall pay a non-refundable $25.00 new connection fee to the city recorder at the time the request for connection to either utility service is made. Customers who rent the property or premises to which the utility connection is being made shall also make a $100.00 security deposit at the time the request is made. The deposit shall be applied to any delinquency owed by the customer on his or her utility account at such time as it may be necessary to terminate water service to said customer. The $100.00 deposit, or the unencumbered balance thereof, shall be refunded to the customer

whenever service is terminated. The payment of an additional $25.00 re-connection fee and a new security deposit of $100.00 plus payment of all remaining unpaid and delinquent user fees and utility charges shall be required from any customer whose water service has been disconnected because of non-payment of water and/or sewer user fees and additional charges. An application for either original or additional service must be made and be approved by the town before connection or meter installation orders will be issued and work performed. (Ord. #91-042, Jan. 1992, as replaced by Ord. #98-002, May 1998)

18-104. Application for service. If, for any reason, a customer, after applying for service, does not take such service by reason of not occupying the premises or otherwise, he shall reimburse the town for the expense incurred by reason of its endeavor to furnish such service.

The receipt of a prospective customer's application for service, regardless of whether or not accompanied by a deposit, shall not obligate the town to render the service applied for. If the service applied for cannot be supplied in accordance with the provisions of this chapter and general practice, the liability of the town to the applicant shall be limited to the return of any deposit made by such applicant. (1980 Code, § 13-104)

18-105. Service charges for temporary service. Customers requiring temporary service shall pay all costs for connection and disconnection incidental to the supplying and removing of service in addition to the regular charge for water and/or sewer service. (1980 Code, § 13-105)

18-106. Connection charges. (1) The tap-on fee for each connection to the municipal sewer system shall be one thousand nine hundred and fifty dollars ($1,950.00) plus an initial connection inspection fee of twenty dollars ($20.00) for a total of one thousand nine hundred and seventy dollars ($1,970.00). Any additional inspections which are necessary shall be made at a cost to the customer of twenty dollars ($20.00) per inspection. For multi-unit dwellings, such as apartments and condominiums, which utilize a single sewer tap or single water meter, there shall be an additional sewer tap-on charge of two hundred fifty dollars ($250.00) for each individual dwelling unit up to and including six (6) units. For all individual dwelling units in excess of six (6) on any single tap or water meter, there shall be an additional sewer tap-on fee of one hundred fifty dollars ($150.00) for each unit. This sewer tap-on fee schedule for additional units shall also apply to any mobile home park or commercial shopping center within the municipal limits which is served by one (1) sewer tap or water meter. Each mobile home or individual commercial shop or office shall be considered a separate unit for purposes of determining the appropriate sewer tap-on fee and monthly user fee.

For multi-unit dwellings, such as apartments and condominiums, which utilize a meter for each unit, one (1) regular sewer tap fee shall be charged per building and for each unit therein a one-half (1/2) sewer tap fee shall be charged. To take advantage of this discount, all sewer taps are to be made and installed at the same time as the sewer mains and manholes by the developer. All sewer tap fees shall be paid prior to the end of construction of each unit to take advantage of this discount. The Town of Bluff City shall inspect all work done by the developer.

(2) The owner of the property upon which an individual mobile home sits, whether or not the same is located in a commercial mobile home park, shall be treated as a home owner and shall pay the base tap fee of one thousand nine hundred and fifty dollars ($1,950.00) and additional appropriate charges, if any, when the property or mobile home is connected to the municipal sewer system pursuant to the terms of this section.

(3) The fee or charge for the town's installing each water meter and connecting each property owner or customer within the corporate limits to the municipal water system shall be five hundred dollars ($500.00) per meter. The fee or charge for installing a water meter and connecting customers outside of the corporate limits to the municipal water system shall be seven hundred dollars ($700.00) per customer. Each distinct dwelling unit in a multi-unit building, such as apartments or condominiums, shall be considered a separate and distinct customer for purposes of determining the water system connection fee regardless of the number of water meters installed at each multi-unit building. Each distinct commercial shop in a shopping center or shopping plaza shall be considered a separate customer for purposes of determining the water system connection fee. Each mobile home located in a mobile home park or on property occupied by another building already connected to the municipal water system shall be considered a distinct customer for purposes determining the water system connection fee.

For multi-unit dwellings, such as apartments and condominiums, which utilize a meter for each unit, one (1) regular tap fee shall be charged per building and one-half (1/2) regular tap fee for each unit therein. All water mains and laterals shall be installed by the developer as well as the line setters and meter boxes supplied and installed by the developer. The Town of Bluff City shall inspect all work done by the developer. The Town of Bluff City shall furnish the water meters. All fees shall have to be paid prior to the end of construction of each unit for the developers to take advantage of this discount.

The change over of customers in the Hillcrest area from the Johnson City Utility System to the town's water system shall be made without costs to the customers unless a new water meter is required. In that event a charge of one hundred twenty-five dollars ($125.00) shall be made for the new meter required in the change over. Water customers along the town's original four inch (4") line who are being switched to receive utility service from the new six inch (6")

transmission line shall be reconnected to the town's water system without any additional charge.

(4) The sewer system tap-on fee for each connection of any commercial or industrial user whose building or structure exceeds ten thousand (10,000) square feet of covered floor space shall be the initial one thousand nine hundred and fifty dollars ($1,950.00) plus five hundred dollars ($500.00) for each additional ten thousand (10,000) square feet, or the appropriate pro rata percentage of such additional covered floor space.

(5) All recorded lots or parcels of property which abut any part of the municipal sewer line (or easement) or which abut the roads rights-of-way which are adjacent to the sewer line (or easement) or through which the sewer line runs shall be charged the monthly user fee which is computed upon the volume of water supplied to the particular property or customer regardless of whether the property or customer is connected to the municipal sewer system. Any property occupied by a residential, business, or industrial structure requiring the use of municipal water within the corporate limits and which abuts the municipal sewer line (or easement) as described above, but which is not presently connected to the municipal sewer system shall be connected to the sewer system at such time as the title to the property, or any interest therein, is sold or transferred to another individual or business entity and shall be charged the existing rates for said connection. Any property which is determined by the board of mayor and aldermen to constitute a health hazard because of septic waste disposal inadequacies shall be required to connect to the municipal sewer system immediately, and the owner thereof shall be required to pay all tap fees and related expenses required under this and any other applicable ordinance. (Ord. #91-032, Aug. 1991, as amended by Ord. #95-006, June 1995, Ord. #95-014, Jan. 1996, and Ord. #2004-001, Feb. 2004, and replaced by Ord. #2011-001, March 2011)

18-107. <u>Water and sewer service extensions and financial arrangements for payment</u>. (1) Each customer and/or owner of property who receives sewer service by virtue of the construction of a sewer line extension from the municipal sewer system as it is constituted at the time of the passage of this chapter shall pay the costs of extending the water service and/or sewer service to his or her property. In the event that the costs of said water and/or sewer extension exceed the base water meter connection fee or sewer tap fee charged to the property owner or customer under this chapter or any amendments thereto, each property owner or customer shall be responsible for his or her pro rata share of the additional water and/or sewer extension project's costs. The costs for the particular utility extension project shall be determined and itemized by the town after the completion of the extension project. All costs of the utility extension, including the expenses and legal fees associated with the acquiring of any necessary easements and the preparation of required contract documents, all additional pump stations, engineering costs, material and

equipment costs, labor costs, construction and/or contract costs, capital outlay note or bond costs and expenses, all required federal, state, and local inspection fees, and any other expense necessarily incurred by the town in order to complete the water and/or sewer extension project shall be included in the final computation. The property owners or customers who will receive municipal water and/or sewer service as a result of the utility extension project shall each be liable for his or her pro rata share of the project construction cost over and above the basic connection fees specified in § 18-106. In no event shall the connection fee charged to each property owner or customer for a utility extension to his/her property be less than the connection fee or tap fee in effect at the time of the completion of the water/sewer extension project. Pro rata shares shall be based on the number of distinct units or customers who will receive the utility service within sixty (60) days of the announced completion of the project.

(2) Each property owner, occupant, or customer whose property receives municipal water service and which abuts the sewer line extension, the sewer line easement, and the road right-of-way adjacent to the sewer extension or through which the utility extension runs must connect his/her property to the municipal water and/or sewer system within sixty (60) days of the town's announcing that the utility extension project has been completed. Any property to which water lines have been laid and which meets the location criteria specified herein shall be required to connect to the sewer line extension sixty (60) days after its announced completion. No pre-completion representations made by town agents regarding estimated water and/or sewer extension project costs shall be binding upon the town nor shall any such representations create any express or implied contracts or be grounds for estoppel should the actual costs of the utility extension project, as finally computed and itemized, exceed the initial cost estimates.

(3) When the board of mayor and aldermen determines by resolution to undertake a particular utility extension project pursuant to the terms of this chapter, each property owner or customer to be served by the extension shall pay the base tap fee as set by this chapter, or any amendments thereto, within sixty (60) days of the passage of the board's resolution if the estimated utility extension project costs exceed the base connection fee or tap fee. The board of mayor and aldermen shall publish a payment schedule for the prospective property owners and customers to be served by the utility extension. Said payment schedule shall allow the prospective customers to make voluntary periodic payments on their pro rata share of the estimated additional project costs during the planning and construction phase of the utility extension project. Each property owner's and customer's pro rata share of the utility extension project cost shall be due and payable not less than ten (10) business days before the connection of the property to the municipal sewer system is made. In the event that the completed and itemized utility extension project costs are less than the town's initial cost projections and any property owner or customer has paid more than his/her finally computed pro rata share, the respective over

payments shall be returned to the appropriate property owner with interest thereon computed at ten percent (10%) per annum.

(4) Fire hydrants shall be located on water extension lines at locations not to be farther than one thousand (1,000) feet from the most distant part of any dwelling structure and no farther than six hundred (600) feet from the most distant part of any commercial, industrial, or public building, such measurements to be based on road or street distances.

(5) Materials used in the installation of water and sewer lines shall conform to the standards set by the Tennessee Department of Health and Environment. Title to the utility extensions during the planning and construction stages, as well as upon completion and approval of the service lines and equipment, shall remain in the town.

(6) Any grant monies secured by the town to be applied to the construction of a particular utility extension project shall be applied to reduce each property owner or customer's pro rata share of the final computed cost but shall not affect each owner or customer's liability for the base water connection fee or sewer tap fee. (Ord. #91-032, Aug. 1991)

18-108. Water and sewer service to be extended at discretion of town. (1) Municipal sewer service shall be extended to new customers only when such extensions are economically feasible and can be made under the terms and conditions of this chapter.

(2) The authority to make water and/or sewer main and lateral extensions under the preceding section is permissive only and nothing contained therein shall be construed as requiring the town to make such extensions or to furnish service to any person or persons. (Ord. #91-032, Aug. 1991)

18-109. Meters. All meters shall be installed, tested, repaired, and removed only by the town.

No one shall do anything which will in any way interfere with or prevent the operation of a meter. No one shall tamper with or work on a water meter without the written permission of the town. No one shall install any pipe or other device which will cause water to pass through or around a meter without the passage of such water being registered fully by the meter. (1980 Code, § 13-109)

18-110. Meter tests. The town will, at its own expense, make routine tests of meters when it considers such tests desirable.

In testing meters, the water passing through a meter will be weighed or measured at various rates of discharge and under varying pressures. To be considered accurate, the meter registration shall check with the weighed or measured amounts of water within the percentage shown in the following table:

Meter Size	Percentage
5/8", 3/4", 1", 2"	2%
3"	3%
4"	4%
6"	5%

The town will also make tests or inspections of its meters at the request of the customer. However, if a test requested by a customer shows a meter to be accurate within the limits stated above, the customer shall pay a meter testing charge in the amount stated in the following table:

Meter Size	Test Charge
5/8", 3/4", 1"	$ 2.00
1-1/2", 2"	5.00
3"	8.00
4"	12.00
6" and over	20.00

If such test show a meter not to be accurate within such limits, the cost of such meter test shall be borne by the town. (1980 Code, § 13-110)

18-111. Multiple services through a single meter. No customer shall supply water or sewer service to more than one dwelling or premise from a single service line and meter without first obtaining the written permission of the town.

Where the town allows more than one dwelling or premise to be served through a single service line and meter, the amount of water used by all the dwellings and premises served through a single service line and meter shall be allocated to each separate dwelling or premise served. The water and/or sewer charges for each such dwelling or premise thus served shall be computed just as if each such dwelling or premise had received through a separately metered service the amount of water so allocated to it, such computation to be made at the town's applicable water schedule, including the provisions as to minimum bills. The separate charges for each dwelling or premise served through a single service line and meter shall then be added together, and the sum thereof shall be billed to the customer in whose name the service is supplied. (1980 Code, § 13-112)

18-112. Billing. Bills for residential water and sewer service will be rendered monthly.

Bills for commercial and industrial service may be rendered weekly, semimonthly, or monthly, at the option of the town.

Both charges shall be collected as a unit; no municipal employee shall accept payment of water service charges from any customer without receiving

at the same time payment of all sewer service charges owed by such customer. Water service may be discontinued for non-payment of the combined bill.

Water and sewer bills must be paid on or before the discount date shown thereon to obtain the net rate; otherwise the gross rate shall apply. Failure to receive a bill will not release a customer from payment obligation, nor extend the discount date.

In the event a bill is not paid on or before five (5) days after the discount date, a written notice shall be mailed to the customer. The notice shall advise the customer that his service may be discontinued without further notice if the bill is not paid on or before twenty (20) days after the discount date. The town shall not be liable for any damages resulting from discontinuing service under the provisions of this section, even though payment of the bill is made at any time on the day that service is actually discontinued.

Should the final date of payment of bill at the net rate fall on Sunday or a holiday, the business day next following the final date will be the last day to obtain the net rate. A net remittance received by mail after the time limit for payment at the net rate will be accepted by the town if the envelope is date-stamped on or before the final date for payment of the net amount.

If a meter fails to register properly, or if a meter is removed to be tested or repaired, or if water is received other than through a meter, the town reserves the right to render an estimated bill based on the best information available. (1980 Code, § 13-113)

18-113. <u>Discontinuance of service</u>. (1) Water service and sewer service shall be terminated to any customer whose water and/or sewer account becomes delinquent for more than sixty (60) days. The city recorder, in the event either municipal utility account remains delinquent more than thirty (30) days, shall notify the customer in writing that his or her water service shall be terminated if the account continues to remain delinquent in any amount for more than sixty (60) days unless the customer makes satisfactory arrangements to eliminate the arrearage prior to the end of the sixty (60) day period. Any customer who claims that he or she cannot satisfy the utility arrearage because of unexpected and severe economic hardship may apply, within the sixty (60) day period, to the board of mayor and aldermen for temporary and partial financial relief. The board may grant such temporary, partial relief as it deems appropriate under the circumstances, but shall not permanently relieve the customer of the legal charges and fees incurred under this chapter. No application for temporary relief shall be considered by the board if it is filed or requested by the delinquent customer or property owner after the expiration of the sixty (60) day period.

(2) The town's right to discontinue water utility service shall apply to all service received through a single connection or service, even though more than one (1) customer or tenant is furnished service therefore, and even though the delinquency or violation is limited to only one such customer or tenant.

(3) Discontinuance of water utility service by the town for any cause stated in this title shall not release the customer from liability for service already received or from liability for payments that thereafter become due. (Ord. #91-032, Aug. 1991)

18-114. Re-connection charge. Whenever service has been discontinued as provided for above, a re-connection charge of twenty-five dollars ($25.00) shall be collected by the town before service is restored. (Ord. #91-032, Aug. 1991)

18-115. Termination of service by customer. Customers who have fulfilled their contract terms and wish to discontinue service must give at least three (3) days written notice to that effect unless the contract specifies otherwise. Notice to discontinue service prior to the expiration of a contract term will not relieve the customer from any minimum or guaranteed payment under such contract or applicable rate schedule.

When service is being furnished to an occupant of premises under a contract not in the occupant's name, the town reserves the right to impose the following conditions on the right of the customer to discontinue service under such a contract:

(1) Written notice of the customer's desire for such service to be discontinued may be required; and the town shall have the right to continue such service for a period of not to exceed ten (10) days after receipt of such written notice, during which time the customer shall be responsible for all charges for such service. If the town should continue service after such ten (10) day period subsequent to the receipt of the customer's written notice to discontinue service, the customer shall not be responsible for charges for any service furnished after the expiration of the ten (10) day period.

(2) During the ten (10) day period, the occupant of premises to which service has been ordered discontinued by a customer other than such occupant, may be allowed by the town to enter into a contract for service in the occupant's own name upon the occupant's complying with these rules and regulations with respect to a new application for service. (1980 Code, § 13-116)

18-116. Access to customers' premises. The town's identified representatives and employees shall be granted access to all customers' premises at all reasonable times for the purpose of reading meters, for testing, inspecting, repairing, removing, and replacing all equipment belonging to the town, and for inspecting customers' plumbing and premises generally in order to secure compliance with these rules and regulations. (1980 Code, § 13-117)

18-117. Inspections. The town shall have the right, but shall not be obligated, to inspect any installation or plumbing system before water and/or sewer service is furnished or at any later time. The town reserves the right to

refuse service or to discontinue service to any premises not meeting standards fixed by municipal ordinances regulating building and plumbing, or not in accordance with any special contract, these rules and regulations, or other requirements of the town.

Any failure to inspect or reject a customer's installation or plumbing system shall not render the town liable or responsible for any loss or damage which might have been avoided had such inspection or rejection been made. (1980 Code, § 13-118)

18-118. Customer's responsibility for system's property. Except as herein elsewhere expressly provided, all meters, service connections, and other equipment furnished by or for the town shall be and remain the property of the town. Each customer shall provide space for and exercise proper care to protect the property of the town on his premises. In the event of loss or damage to such property arising from the neglect of a customer properly to care for same, the cost of necessary repairs or replacements shall be paid by the customer. (1980 Code, § 13-119)

18-119. Customer's responsibility for violations. Where the town furnishes water and/or sewer service to a customer, such customer shall be responsible for all violations of these rules and regulations which occur on the premises so served. Personal participation by the customer in any such violations shall not be necessary to impose such personal responsibility on him. (1980 Code, § 13-120)

18-120. Supply and resale of water. All water shall be supplied within the town exclusively by the town, and no customer shall, directly or indirectly, sell, sublet, assign, or otherwise dispose of the water or any part thereof except with written permission from the town. (1980 Code, § 13-121)

18-121. Unauthorized use of or interference with water supply. No person shall turn on or turn off any of the town's stop cocks, valves, hydrants, spigots, or fire plugs without permission or authority from the town. (1980 Code, § 13-122)

18-122. Limited use of unmetered private fire line. Where a private fire line is not metered, no water shall be used from such line or from any fire hydrant thereon, except to fight fire or except when being inspected in the presence of an authorized agent of the town.

All private fire hydrants shall be sealed by the town, and shall be inspected at regular intervals to see that they are in proper condition and that no water is being used therefrom in violation of these rules and regulations. When the seal is broken on account of fire, or for any other reason, the customer

taking such service shall immediately give the town a written notice of such occurrence. (1980 Code, § 13-123)

18-123. Damages to property due to water pressure. The town shall not be liable to any customer for damages caused to his plumbing or property by high pressure, low pressure, or fluctuations in pressure in the town's water mains. (1980 Code, § 13-124)

18-124. Liability for cutoff failures. The town's liability shall be limited to the forfeiture of the right to charge a customer for water that is not used but is received from a service line under any of the following circumstances:

(1) After receipt of at least ten (10) days' written notice to cut off water service, the town has failed to cut off such service.

(2) The town has attempted to cut off a service but such service has not been completely cut off.

(3) The town has completely cut off a service but subsequently the cutoff develops a leak or is turned on again so that water enters the customer's pipes from the town's main.

Except to the extent stated above, the town shall not be liable for any loss or damage resulting from cutoff failures. If a customer wishes to avoid possible damage for cutoff failures, the customer shall rely exclusively on privately owned cutoffs and not on the town's cutoff. Also, the customer (and not the town) shall be responsible for seeing that his plumbing is properly drained and is kept properly drained, after his water service has been cut off. (1980 Code, § 13-125)

18-125. Restricted use of water. In times of emergencies or in times of water shortage, the town reserves the right to restrict the purposes for which water may be used by a customer and the amount of water which a customer may use. (1980 Code, § 13-126)

18-126. Interruption of service. The town will endeavor to furnish continuous water and sewer service, but does not guarantee to the customer any fixed pressure or continuous service. The town shall not be liable for any damages for any interruption of service whatsoever.

In connection with the operation, maintenance, repair, and extension of the municipal water and sewer systems, the water supply may be shut off without notice when necessary or desirable, and each customer must be prepared for such emergencies. The town shall not be liable for any damages from such interruption of service or for damages from the resumption of service without notice after any such interruption. (1980 Code, § 13-127)

18-127. Schedule of rates. All water and sewer service shall be furnished under such rate schedules as the town may from time to time adopt by appropriate ordinance or resolution.[1] (1980 Code, § 13-111)

18-128. Surcharge on sewer customers. (1) The surcharge provided in this section, on all sewer customers, shall be for the purpose of providing funds to pay for the new wastewater treatment plant.

(2) The surcharge shall be in the amount of five and 00/100 dollars ($5.00) per month, per sewer customer. (Ord. #87-003, Aug. 1987)

18-129. Procedure for adjustments to water and sewer accounts.

(1) The town will make normal adjustments on customers' accounts when routine errors such as clerical errors and meter reading errors occur.

(2) Other adjustments can be made when approved by the city manager or his designee and a written record shall be made justifying said adjustment and shall be signed by the person requesting same as well as the person granting the adjustment. Adjustments can be made under the following circumstances:

(a) Water leaks. Adjustments for leaks on the customer side of the meter will be limited to two (2) consecutive billing periods for any one (1) leak. There will be only one (1) water leak adjustment in any twelve (12) month period. A signed affidavit that the leak has been repaired is required before any adjustment can be made. The affidavit should be by the plumber making the repair. Adjustments will be made by calculating the average bill, in gallons, and taking that amount from the total amount used. All over the average bill will be charged at a discount rate that will include all costs to the town. This cost will come from an annual audit. The customer's bill will then be the total of the average bill and the excess at the discount rate. When doing this adjustment for a leak over two (2) consecutive months, each month will be done individually.

(b) Sewer adjustments. Sewer bills will be adjusted to an average annual bill when water leaking does not go into sewer system. An example of not going into sewer would be a leaking pipe underground. An example of going into the sewer would be a leaking faucet. Adjustments will be made by calculating the average bill, in gallons, and taking that amount from the total amount used. All over the average bill will be charged at a discount rate that will include all costs to the town. This cost will come from the annual audit. Sewer adjustments are also limited to two (2) consecutive billing periods per leak. There will be only one (1) sewer leak adjustment in any twelve (12) month period. The town can require the customer to prove that the leak did not go into the sewer system. When doing this adjustment for a leak over two (2) consecutive months, each month will be done individually.

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[1]Administrative ordinances and resolutions are of record in the office of the recorder.

(c) Swimming pools. There will be one (1) adjustment per calendar year for filling swimming pools. The adjustment will be made for sewer only and will not be adjusted below the annual average bill of the customer. The adjustment will be based on the pool capacity of water, in gallons.

(d) Unusual circumstances. There may arise unusual or extreme conditions of water use that may call for the adjustment of the sewer fee. This should be handled on the same bases as swimming pools as in (c) above.

(e) Consumptive use. The volume of water which is used in calculation of sewer use charges may be adjusted by the town if the user purchases a significant volume of water for consumptive use and does not discharge it into the public sewer. The user shall be responsible for documenting the quantity of waste discharged to the public sewer by purchasing a meter to be placed on the sewer lateral where it discharges into the town's trunk line. The user shall be responsible for the costs of the meter, installation, and any and all maintenance. The town shall have access to the property for inspection and the meter will be calibrated and/or replaced or repaired at the request of the town. (Ord. #98-003, May 1998, as amended by Ord. #2008-007, June 2008)

CHAPTER 2

SEWAGE AND HUMAN EXCRETA DISPOSAL[1]

SECTION

18-201. Definitions. The following definitions shall apply in the interpretation of this chapter:

(1) "Accessible sewer." A public sanitary sewer located in a street or alley abutting on the property in question or otherwise within two hundred (200) feet of any boundary of said property measured along the shortest available right-of-way.

(2) "Health officer." The person duly appointed to such position having jurisdiction, or any person or persons authorized to act as his agent.

(3) "Human excreta." The bowel and kidney discharges of human beings.

(4) "Sewage." All water-carried human and household wastes from residences, buildings, or industrial establishments.

(5) "Approved septic tank system." A watertight covered receptacle of monolithic concrete, either precast or cast in place, constructed according to plans approved by the health officer. Such tanks shall have a capacity of not less than 750 gallons and in the case of homes with more than two (2) bedrooms the capacity of the tank shall be in accordance with the recommendations of the Tennessee Department of Health as provided for in its 1967 bulletin entitled "Recommended Guide for Location, Design, and Construction of Septic Tanks and Disposal Fields." A minimum liquid depth of four (4) feet should be provided with a minimum depth of air space above the liquid of one (1) foot. The septic tank dimensions should be such that the length from inlet to outlet is at

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[1]Municipal code reference
Plumbing code: title 12, chapter 2.

least twice but not more than three (3) times the width. The liquid depth should not exceed five (5) feet. The discharge from the septic tank shall be disposed of in such a manner that it may not create a nuisance on the surface of the ground or pollute the underground water supply, and such disposal shall be in accordance with recommendations of the health officer as determined by acceptable soil percolation data.

(6) "Sanitary pit privy." A privy having a fly-tight floor and seat over an excavation in earth, located and constructed in such a manner that flies and animals will be excluded, surface water may not enter the pit, and danger of pollution of the surface of the ground or the underground water supply will be prevented.

(7) "Other approved method of sewage disposal." Any privy, chemical toilet, or other toilet device (other than a sanitary sewer, septic tank, or sanitary pit privy as described above) the type, location, and construction of which have been approved by the health officer.

(8) "Watercourse." Any natural or artificial drain which conveys water either continuously or intermittently. (1980 Code, § 8-301)

18-202. Places required to have sanitary disposal methods. Every residence, building, or place where human beings reside, assemble, or are employed within the corporate limits shall be required to have a sanitary method for disposal of sewage and human excreta. (1980 Code, § 8-302)

18-203. When a connection to the public sewer is required. Wherever an accessible sewer exists and water under pressure is available, approved plumbing facilities shall be provided and the wastes from such facilities shall be discharged through a connection to said sewer made in compliance with the requirements of the official responsible for the public sewerage system. On any lot or premise accessible to the sewer no other method of sewage disposal shall be employed. (1980 Code, § 8-303)

18-204. When a septic tank shall be used. Wherever water carried sewage facilities are installed and their use is permitted by the health officer, and an accessible sewer does not exist, the wastes from such facilities shall be discharged into an approved septic tank system.

No septic tank or other water-carried sewage disposal system except a connection to a public sewer shall be installed without the approval of the health officer or his duly appointed representative. The design, layout, and construction of such systems shall be in accordance with specifications approved by the health officer and the installation shall be under the general supervision of the department of health. (1980 Code, § 8-304)

18-205. Registration and records of septic tank cleaners, etc. Every person, firm, or corporation who operates equipment for the purpose of removing digested sludge from septic tanks, cesspools, privies, and other sewage disposal installations on private or public property must register with the health

officer and furnish such records of work done within the corporate limits as may be deemed necessary by the health officer. (1980 Code, § 8-305)

18-206. Use of pit privy or other method of disposal. Wherever a sanitary method of human excreta disposal is required under § 18-202 and water-carried sewage facilities are not used, a sanitary pit privy or other approved method of disposal shall be provided. (1980 Code, § 8-306)

18-207. Approval and permit required for septic tanks, privies, etc. Any person, firm, or corporation proposing to construct a septic tank system, privy, or other sewage disposal facility, requiring the approval of the health officer under this chapter, shall before the initiation of construction obtain the approval of the health officer for the design and location of the system and secure a permit from the health officer for such system. (1980 Code, § 8-307)

18-208. Owner to provide disposal facilities. It shall be the duty of the owner of any property upon which facilities for sanitary sewage or human excreta disposal are required by § 18-202, or the agent of the owner to provide such facilities. (1980 Code, § 8-308)

18-209. Occupant to maintain disposal facilities. It shall be the duty of the occupant, tenant, lessee, or other person in charge to maintain the facilities for sewage disposal in a clean and sanitary condition at all times and no refuse or other material which may unduly fill up, clog, or otherwise interfere with the operation of such facilities shall be deposited therein. (1980 Code, § 8-309)

18-210. Only specified methods of disposal to be used. No sewage or human excreta shall be thrown out, deposited, buried, or otherwise disposed of, except by a sanitary method of disposal as specified in this chapter. (1980 Code, § 8-310)

18-211. Discharge into watercourses restricted. No sewage or excreta shall be discharged or deposited into any lake or watercourse except under conditions specified by the health officer and specifically authorized by the Tennessee Stream Pollution Control Board. (1980 Code, § 8-311)

18-212. Pollution of ground water prohibited. No sewage effluent from a septic tank, sewage treatment plant, or discharges from any plumbing facility shall empty into any well, either abandoned or constructed for this purpose, cistern, sinkhole, crevice, ditch, or other opening either natural or artificial in any formation which may permit the pollution of ground water. (1980 Code, § 8-312)

18-213. Enforcement of chapter. It shall be the duty of the health officer to make an inspection of the methods of disposal of sewage and human excreta as often as is considered necessary to insure full compliance with the terms of this chapter. Written notification of any violation shall be given by the health officer to the person or persons responsible for the correction of the condition, and correction shall be made within forty-five (45) days after notification. If the health officer shall advise any person that the method by which human excreta and sewage is being disposed of constitutes an immediate and serious menace to health, such person shall at once take steps to remove the menace. Failure to remove such menace immediately shall be punishable under the general penalty clause for this code. However, such person shall be allowed the number of days herein provided within which to make permanent correction. (1980 Code, § 8-313)

18-214. Carnivals, circuses, etc. Whenever carnivals, circuses, or other transient groups of persons come within the corporate limits such groups of transients shall provide a sanitary method for disposal of sewage and human excreta. Failure of a carnival, circus, or other transient group to provide such sanitary method of disposal and to make all reasonable changes and corrections proposed by the health officer shall constitute a violation of this section. In these cases the violator shall not be entitled to the notice of forty-five (45) days provided for in the preceding section. (1980 Code, § 8-314)

18-215. Violations. Any person, persons, firm, association, or corporation or agent thereof, who shall fail, neglect, or refuse to comply with the provisions of this chapter shall be deemed guilty of a misdemeanor and shall be punishable under the general penalty clause for this code. (1980 Code, § 8-315)

CHAPTER 3

CROSS-CONNECTIONS, AUXILIARY INTAKES, ETC.[1]

SECTION

18-301. Definitions. (1) "Air gap." A physical separation between the free flowing discharge end of a potable water supply line and an open or non-pressurized receiving vessel.

(2) "Approved air gap." An air gap separation with a minimum distance of at least twice the diameter of the supply line when measured vertically above the overflow rim of the vessel, but in no case less than one inch (1").

(3) "Approved." Any condition, method, device, procedure accepted by the Tennessee Department of Environment and Conservation, Division of Water Supply, and Water Provider.

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[1]Municipal code references
Plumbing code: title 12.
Water and sewer system administration: title 18.
Wastewater treatment: title 18.

(4) "Auxiliary intake." Any piping connection or other device whereby water may be secured from any sources other than from the public water system.

(5) "Auxiliary water supply." Any water supply on or available to the premises other than water supplied by the public water system.

(6) "Backflow." The reversal of the intended direction of flow of water or mixtures of water and other liquids, gases, or other substances into the distribution pipes of a potable water system from any source.

(7) "Backpressure." A pressure in the downstream piping that is higher than the supply pressure.

(8) "Backsiphonage." Negative or sub-atmospheric pressure in the supply piping.

(9) "Backflow prevention assembly." An approved assembly designed to prevent backflow.

(10) "Bypass." Any system of piping or other arrangement whereby water may be diverted around a backflow prevention assembly, meter, or any other public water system controlled device.

(11) "Contamination." The introduction or admission of any foreign substances that causes illness or death.

(12) "Contaminant." Any substance introduced into the public water system that will cause illness or death.

(13) "Cross-connection." Any physical arrangement whereby public water supply is connected, directly or indirectly with any other water supply system, sewer, drain, conduit, pool, storage reservoir, plumbing fixture or other device which contains, or may contain, contaminated water, sewage, or other waste or liquid of unknown or unsafe quality which may be capable of contaminating the public water supply as result of backflow caused by the manipulation of valves, because of ineffective check valves or backpressure valves or because of any other arrangement.

(14) "Cross-connection control coordinator/manager." The person who is vested with the authority and responsibility for the implementation of the cross-connection control program and for the provision of this chapter/policy.

(15) "Customer." Any natural or artificial person, business, industry, or governmental entity that obtains water, by purchase or without charge, from the water provider.

(16) "Direct cross-connection." An actual or potential cross-connection subject to backsiphonage and backpressure.

(17) "Double check detector assembly." A specially designed assembly composed of line size approved double check valve assembly, with a bypass containing a water meter and approved double check valve assembly specifically designed for such application. The meter shall register accurately for very low rates of flow up to three (3) gallons per minute and shall show a registration for all rates of flow. This assembly shall only be used to protect against non-health hazards and is designed primarily for use on fire sprinkler systems.

(18) "Double check valve assembly." An assembly of two (2) internally loaded check valves, either spring loaded or internally weighted, installed as a unit between tightly closing resilient seated shutoff valves and fitted with properly located resilient seated test cocks. This type of device shall only be used to protect against non-health hazard pollutants.

(19) "Failed." The status of a backflow prevention assembly determined by a performance evaluation based on the failure to meet all minimums set forth by the approved testing procedure.

(20) "Fire system classifications protection." The classes of fire protection systems, as designated by the American Water Works Association "M14" for cross-connection control purposes based on water supply source and the arrangement of supplies, are as follows:

(a) Class 1: Direct Connection to the public main only; non pumps, tanks, or reservoirs; no physical connection from other water supplies; no antifreeze or other additives of any kind; all sprinkler drains discharging to the atmosphere dry well or other safe outlets.

(b) Class 2: Same as Class 1, except booster pumps may be installed in connection from the street mains.

(c) Class 3: Direct connection to public water supply mains in addition to any one (1) or more of the following: elevated storage tanks; fire pumps taking suction from above ground covered reservoirs or tanks; and pressure tanks.

(d) Class 4: Directly supplied from public water supply mains, similar to Class 1 and Class 2, with an auxiliary water supply dedicated to fire department use and available to premises, such as an auxiliary supply located within one thousand seven hundred feet (1,700') of the pumper connection.

(e) Class 5: Directly supplied from public water supply mains and interconnection with auxiliary supplies such as pumps taking suction from reservoirs exposed to contamination, or from rivers, ponds, wells or industrial water systems; where antifreeze or other additives are used.

(f) Class 6: Combined industrial and fire protection systems supplied from the public water mains only, with or without gravity storage or pump suction tanks.

(21) "Hazard, degree of." A term derived from evaluation of the potential risk to public health and the adverse effect of the hazard upon the public water system.

(22) "Hazard, health." A cross-connection or potential cross-connection involving any substance that could, if introduced in the public water supply, caused death, illness, and spread disease also known as a high hazard.

(23) "Hazard, plumbing." A cross-connection in a customer's potable water system plumbing that is not properly protected by an approved air gap or backflow prevention assembly.

(24) "Hazard, non-health." A cross-connection or potential cross-connection involving any substance that would not be a health hazard but would constitute a nuisance or be aesthetically objectionable if introduced into the public water supply also known as low hazard.

(25) "Indirect cross-connection." An actual or potential cross-connection subject to backsiphonage only.

(26) "Industrial fluid." Any fluid or solution that may be chemically, biologically, or otherwise contaminated or polluted in a form or concentration that could constitute a health, system, pollution, or plumbing hazard if introduced into the public water supply. This shall include, but is not limited to: polluted or contaminated water; all type of process water or used water originating from the public water system and that may have deteriorated in sanitary quality; chemicals; plating acids and alkalis; circulating cooling water connected to an open cooling tower; cooling towers that are chemically or biologically treated or stabilized with toxic substance; contaminated natural water systems; oil, gases, glycerin, paraffin, caustic, and acid solutions, and other liquids or gases used in industrial processes, or for fire purposes.

(27) "Inspection." An on-site evaluation of an establishment to determine if backflow prevention assemblies are needed by the customer to protect the public water system from actual or potential cross-connections.

(28) "Interconnection." Any system of piping or other arrangement whereby a public water supply is connected directly with a sewer, drain, conduit, or other device, which does, or may carry sewage or not.

(29) "Passed." The status of a backflow prevention assembly determined by a performance evaluation in which the assembly meets all minimums set forth by the approved testing procedure.

(30) "Performance evaluation." An evaluation of an approved double check valve assembly or reduced pressure principle assembly (including approved director assemblies) using the latest approved testing procedures in determining the status of the assembly.

(31) "Pollutant." A substance in the public water system that would constitute a non-health hazard and would be aesthetically objectionable if introduced into the public water supply.

(32) "Pollution." The presence of a pollutant or substance in the public water system that degrades its quality so as to constitute a non-health hazard.

(33) "Potable water." Water that is safe for human consumption as prescribed by Tennessee Department of Environment and Conservation, Division of Water Supply.

(34) "Public water supply." An entity that furnishes potable water for general use and which is recognized as the public water supply by Tennessee Department of Environment and Conservation, Division of Water Supply.

(35) "Pressure vacuum breaker assembly." An assembly consisting of one (1) or two (2) independently operating spring loaded check valve(s) and an independently operating spring loaded air inlet valve located on the discharge

side of the check valve(s), with tightly closing shutoff valve(s) on each side of the check valves and properly located test cocks for testing valves. This assembly is approved for internal use only and is not approved for premise isolation by the State of Tennessee.

(36) "Public water system." A water system furnishing water to the public for general use which is recognized as a public water supply by the State of Tennessee.

(37) "Reduced pressure principle assembly." An assembly consisting of two (2) independently acting approved check valves together with hydraulically operating, mechanically independent, pressure differential relief valve located between the check valves and below the first check valve. These units shall be located between two (2) tightly closing resilient seated shutoff valves as an assembly and equipped with properly located resilient seated test cocks.

(38) "Reduced pressure principle detector assembly." A specially designed assembly composed of a line-size approved reduced pressure principle backflow prevention assembly with a bypass containing a water meter and approved reduced pressure principle backflow prevention assembly specifically designed for such application. The meter shall register accurately for very low flow rates of flows up to three (3) gallons per minute and shall show registration for all flow rates. This assembly shall be used to protect against non-health and health hazards and used for internal protection.

(39) "Service connection." The point of delivery to the customer's water system; the terminal end of a service connection from the public water system where the water department loses jurisdiction and control over the water. "Service connection" shall include connections to fire hydrants and all other temporary or emergency water service connections made to the public water system.

(40) "State." The State of Tennessee, Tennessee Department of Environment and Conservation, Division of Water Supply.

(41) "Survey." An evaluation of a premise by a water system performed for the determination of actual or potential cross-connection hazards and the appropriate backflow prevention needed.

(42) "Water system." The water system operated, whether located inside or outside, the corporate limits thereof, shall be considered as made up of two (2) parts, the utility system and the customer system.

(a) The utility system shall consist of the facilities for the production, treatment, storage, and distribution of water, and shall include all those facilities of the water system under the complete control of the water department up to the point where the customer's system begins (i.e. downstream of the water meter);

(b) The customer system shall include those parts of the facilities beyond the termination of the water department distribution system that are utilized in conveying water to the point of use. (1980 Code, § 8-401, as replaced by Ord. #2012-017, Dec. 2012)

18-302. Compliance with Tennessee Code Annotated. The public water system is to comply with Tennessee Code Annotated, § 68-221-711, as well as the Rules of Public Water Systems, legally adopted in accordance with this policy/ordinance, which pertain to cross-connections, auxiliary intakes, bypasses, and interconnections, and establish an effective, ongoing program to control these undesirable water uses. (1980 Code, § 8-402, as replaced by Ord. #2012-017, Dec. 2012)

18-303. Regulated. No person shall cause a cross-connection, auxiliary intake, bypass, or interconnection to be made, or allow one to exist for any purpose whatsoever unless the construction and operation of same has been approved by the Tennessee Department of Environment and Conservation and the operation of such cross-connection, auxiliary intake, bypass, or interconnection is at all times under the direct supervision of the cross-connection control manager/coordinator of the public water system.

(1) No water service connection to any premises shall be installed or maintained by water system unless the water supply is protected as required by this policy/ordinance. Service of water to any premises shall be discontinued by the water system if a backflow prevention assembly required by this policy is not properly installed, tested, and/or maintained; or if it is found that a backflow prevention assembly has been removed, bypassed, or if an unprotected cross-connection exists on the premises. Service shall not be restored until such conditions or defects are correct.

(2) Prior to execution any work order for a new customer, or for any change in service to an existing customer, notification shall be given to the office of the cross-connection control. Inspectors from the cross-connection control office shall make immediate determination in writing to the customer of the type of backflow prevention assembly needed. Water service shall not be established or maintained until all necessary backflow prevention assemblies are installed.

(3) It shall be unlawful for any person to cause a cross-connection to be made or allow one to exist for any purpose whatsoever unless the construction and operation of same have been approved by the Tennessee Department of Environment and Conservation, and the operation of such cross-connection is at all times under the direction of the manager of the water system.

(4) If, in the judgment of the cross-connection manager/coordinator or designee, an approved backflow prevention assembly is required at the water service connection to a customer's premises, or at any point(s) within the premises, to protect the potable water supply, the manager shall compel the installation, testing, and maintenance of the required backflow prevention assembly(s) at the customer's expense.

(5) An approved backflow prevention assembly shall be installed on each water service line to a customer's premises at or near the property line or

immediately inside the building being served; but in all cases before the first branch line leading off the service line.

(6) For new installations, the manager or his designee shall inspect the site and/or review plans in order to assess the degree of hazard and to determine the type of backflow prevention assembly, if any, that will be required, and to notify the owners in writing of the required assembly and installation criteria. All required assemblies shall be installed and operational prior to initiation of water service.

(7) For all existing premises, personnel from the water system shall conduct inspections and evaluations, and shall require correction of violations in accordance with the provisions of this policy/ordinance.

(8) For existing installations, the cross-connection manager/ coordinator may cause water service to be discontinued until such time as the customer complies with all requirements of state law and this policy/ordinance.

(9) For new commercial or industrial construction or renovation of a commercial or industrial property the cross-connection coordinator/manager or inspector shall inspect the site and review plans in order to determine the type(s) of backflow prevention assembly and notify the owner(s) in writing the type of required assembly(s). Such assembly(s) shall be tested within: three (3) days upon connection to water system. (Time depends on hazard and risk.)

(10) The customer shall install approved assembly(s) at their expense. Failure, refusal, or inability on the part of the customer to install, and maintain such an assembly shall be cause for discontinuance of, or refusal of, water service to the premises until such requirements are satisfactorily met.

(11) No installation, alteration or change(s) shall be made to any backflow prevention assembly connected to the public water system without first securing permission from the cross-connection manager/coordinator.

(12) All backflow prevention assemblies will be inspected after installation for compliance with all requirements of this policy. Failure to meet all installation and testing requirements shall be cause for discontinuance of, or refusal of, water service to the premises until such requirements are satisfactorily met.

(13) It shall be unlawful to install or allow any unprotected takeoffs from the water service line ahead of any meter or backflow prevention assembly located directly after the service connection to a customer's water system. (1980 Code, § 8-403, as replaced by Ord. #2012-017, Dec. 2012)

18-304. Statement required. That any person whose premises are supplied with water from public water system, and who also has on the same premises a separate source of water in an uncovered or unsanitary storage reservoir from which the water stored therein is circulated through a piping system, shall file with public water system a statement of the nonexistence of unapproved or unauthorized cross-connections, auxiliary intakes, bypasses, or interconnections. Such statement shall also contain an agreement that no cross-

connection, auxiliary intake, bypass, or interconnection will be permitted upon the premises. (1980 Code, § 8-404, as replaced by Ord. #2012-017, Dec. 2012)

18-305. Applicability. The requirements contained herein shall apply to all customers and premises of the public water system, and is hereby made a condition required to be met before water service is provided to any customer. This policy/ordinance shall be strictly enforced since it is essential for the protection of the public water supply against contamination and pollution. (1980 Code, § 8-405, as replaced by Ord. #2012-017, Dec. 2012)

18-306. Inspections/surveys. (1) The cross-connection manager/ coordinator shall inspect all properties served by the public water supply where cross-connections with the public water supply are deemed possible. The frequency of inspections and reinspection based on potential health hazards involved shall be established by the cross-connection manager/coordinator in accordance with guidelines acceptable to the division of water supply.

(2) Right of entry. (a) The cross-connection manager/coordinator or designee shall have the right to enter at any reasonable time any property served by a connection to the public water system for the purpose of inspecting the piping system therein for cross-connections, auxiliary intakes, bypasses, or interconnections. On request, the owner, lessee, or occupant or any property so served shall furnish any pertinent information regarding the piping system on the property. The refusal of such information or refusal of access, when requested, shall be deemed as evidence of the presence of connections.

(b) When cross-connections, other structural or sanitary hazards, or any violation of this becomes known, the cross-connection manager/coordinator or designee may deny or discontinue service to the premises by providing for a physical break in the service line until the customer has corrected the condition(s) in conformance with this policy/ ordinance. (1980 Code, § 8-406, as replaced by Ord. #2012-017, Dec. 2012)

18-307. Backflow prevention determination. An approved prevention assembly shall be installed on each service line to a customer's premises and in all cases, before the first branch line leading off the service line. If it is impractical or easily altered to provide an effective air gap separation which will be determined by the cross-connection control manager/coordinator or designee. Backflow device must be installed before any branch lines are tapped after the customers meter.

(1) All premises listed as high risk high hazard including industrial fluids, sewage, or any other non-potable substances are handled in such a manner as to create actual or potential health hazard to the water system.

(2) All premises listed with actual or potential cross-connections listed in approved plan criteria list.

(3) Premises having auxiliary water supply, including but not limited to a well, cistern, spring, pond, river, or creek that is not, or may not be, of safe bacteriological or chemical quality and that is not acceptable as an additional source by the cross-connection control manager/coordinator or designee.

(4) The plumbing from a private well or other water supply entering the building served by the public water supply, or is connected, directly or indirectly, to the public water supply.

(5) The owner or occupant of the premises cannot, or is not willing to demonstrate that the water use and protective features of the plumbing are such that frequent alterations are made to the plumbing.

(6) The nature and mode of operation within the premises is such that frequent alterations are made to the plumbing.

(7) The nature of the premises is such that the use of the structure may change to a use wherein backflow prevention is required.

(8) There is a likelihood that protective measures may be subverted, altered, or disconnected.

(9) Any premises having service and fire flow connections, most commercial and educational buildings, construction sites, all industrial and medical facilities, lawn irrigation systems, public or private swimming pools, private fire hydrant connections used by any fire department in combating fires, photographic laboratories, standing ponds or other bodies of water, auxiliary water supplies, and wastewater treatment plants.

(10) Any premises having fountains, water softeners, or other point of use treatment systems, hot tubs or spas, or other type(s) of water using equipment.

(11) Premises otherwise determined by the cross-connection control manager/coordinator or designee to create an actual or potential hazard to the public water system.

(12) In the case of any premises where there is any material dangerous to health that is handled in such a fashion as may create an actual or potential health hazard to public water system, the public water system shall be protected by an air gap separation (at the discretion of water provider to allow) or a reduced pressure principle backflow prevention assembly. The following premises, where such conditions may exist, include but are not limited to: sewage treatment plants, sewage pumping stations, chemical manufacturing plants, hospitals, mortuaries, funeral homes, and metal plating operations.

(13) In the case of any premises where, because of security requirements or other prohibitions or restriction it is impossible or impractical to make a complete cross-connection survey, the public water system shall be protected against backflow from the premises by either an air gap separation (at the discretion of the water provider) or reduced pressure principle assembly on each service line to the premises.

(14) A backflow prevention assembly shall be installed on each fire service line at the property line or immediately inside the building being served,

but in all cases, before the first branch line leading off the service line wherever any of the following conditions exist:

(a) Class 1, 2, and 3 fire protection systems shall require at minimum a double check valve (detector) assembly; provided however, that a reduced pressure principle (detector) shall be required:

(i) Underground fire sprinkler pipelines are parallel to and within ten feet (10') horizontally of pipelines carrying waste water or significantly toxic wastes; or

(ii) Premises having unusually complex piping systems;

(iii) The pumpers connecting to the system have corrosion inhibitors or other chemical added to the tanks of the fire trucks;

(iv) The piping system(s) has corrosive inhibitors or other chemical added to prevent freezing;

(v) An auxiliary water supply exists with one thousand seven hundred feet (1,700') of any likely pumper connection.

(b) Class 4, Class 5, Class 6 fire protection systems shall require an air gap, or a reduced pressure principle assembly (detector) as determined by the cross-connection control manager/coordinator or designee.

(c) Where a fire sprinkler system is installed on the premises, a minimum of a double check valve assembly (detector) shall be required.

(d) Where a fire sprinkler uses chemicals, such as liquid foam, to enhance fire suppression a reduced pressure principle detector assembly shall be required.

(e) The cross-connection control manager/coordinator may require internal or additional backflow prevention devices where it is deemed necessary to protect potable water supplies within the premises.

(15) In the case of any premises with an auxiliary water supply as set out in § 18-310 and not subject to any of the following rules, the public water system shall be protected by an air gap separation or a reduced pressure principle assembly.

(16) Double check valve assembles (and detectors) may only be used for Class 1-3 fire protection systems (at the discretion of water provider to even allow).

(17) In the case of any premises where there is any material dangerous to health that is handled in such a fashion as may create an actual or potential hazard to public water system, the public water system shall be protected by a reduced pressure principle backflow prevention assembly. The following premises, where such conditions may exist, include but are not limited to: sewage treatment plants, sewage pumping stations, chemical manufacturing plants, hospitals, mortuaries, funeral homes, and metal plating operations.

(18) In the case of any premises where there are uncontrolled cross-connections, either actual or potential, the public water system shall be protected by a reduced pressure principle assembly (detector) or air gap

separation (at the discretion of water provider) assembly on each service line to the premises.

(19) In the case of any premises where, because of security requirements or other prohibitions or restriction it is impossible or impractical to make a complete cross-connection survey, the public water system shall be protected against backflow from the premises by either an air gap separation (at the discretion of the water provider) or reduced pressure principle assembly on each service line to the premises.

(20) In the case of any premises where toxic substances are present that could pose an undue health hazard, the cross-connection control manager/ coordinator or designee will require an air gap separation or reduced pressure principle assembly at the service connection to protect the public water system. (1980 Code, § 8-407, as replaced by Ord. #2012-017, Dec. 2012)

18-308. Approved backflow prevention assemblies and methods.

(1) All backflow prevention assemblies shall be fully approved and listed as acceptable be the State of Tennessee as to manufacture, model, size, application, orientation, and alterations. The assembly must have a status of passed determined by performance evaluations to suffice as an approved backflow prevention assembly. The method of installation of backflow prevention devices shall comply with installation criteria set forth by this policy/ ordinance and the State of Tennessee. Installation shall be at the sole expense of the owner or occupant of the premises.

(2) The type of protective assembly required by this policy/ordinance shall depend on the degree of hazard that exists. Reduced pressure principle assemblies (detector) may be used for health hazards and non-health hazards. Double check valve assemblies (detector) may only be used for non-health hazards and is limited to Class 1-3 fire systems only.

(3) Pressure vacuum breakers, spill-resistant vacuum breakers, and atmospheric vacuum breakers are not allowed for premise isolation and will not satisfy the requirements of this policy/ordinance for adequate backflow prevention due in part to the inability to protect against backpressure. (1980 Code, § 8-408, as replaced by Ord. #2012-017, Dec. 2012)

18-309. Backflow prevention assembly installation requirements.

Minimum acceptable criteria for installation of backflow prevention assemblies shall include the following:

(1) All backflow prevention assemblies shall be installed at minimum in the approved orientation as indicated by the latest approved list.

(2) All new assemblies installed must be on the approved assemblies list maintained by the division of water supply and existing assemblies must have status of approved.

(3) Installation of assemblies shall be performed by person granted authority by the water provider. All backflow prevention assemblies installed

fire protection systems must be performed by persons possessing a fire sprinkler contractor license. Evidence of current certifications/license must be on file with the cross-connection control manager/coordinator before any installation or testing of the devices can be performed.

(4) All assemblies shall be installed in accordance with the manufacturer installation instructions and by the State of Tennessee installation guide, from the state manual or policies on cross-connection control, unless such instructions are in conflict with this policy, in which case the policy/ ordinance shall control, and shall possess all test cocks and fittings required for testing the assembly. All test cocks will be fitted with adapters and all fittings shall permit direct connection to test kits used by the department.

(5) The entire assembly including test cocks and valves shall be easily accessible for testing and repair and shall meet all confined space requirements of OSHA/TOSHA.

(6) Reduced pressure backflow prevention assemblies shall be located so that the relief valve discharge port is a minimum of twelve inches (12"), plus nominal diameter of the supply line, above the floor surface. The maximum height above the floor surface shall not exceed sixty inches (60").

(7) Clearance of devices from wall surfaces or other obstructions shall be a minimum of six inches (6"); or if a person must enter the enclosure for repair or testing, the minimum distance shall be twenty-four inches (24").

(8) Devices shall be protected from freezing, vandalism, mechanical abuse, and from any corrosive, sticky, greasy, abrasive, or other damaging substance.

(9) Devices shall be positioned where discharge from a relief port will not create undesirable conditions. An approved air gap shall separate the relief port from any drainage system. Such air-gap shall not be altered without the specific approval of the department.

(10) Devices shall be located in an area free from submergence or flood potential and cannot be placed in a pit.

(11) All devices shall be adequately supported to prevent sagging.

(12) An approved strainer, fitted with a test cock, shall be installed immediately upstream of all backflow prevention assemblies or shut-off valve, except on fire lines, using only non-corrosive fittings (e.g. brass or bronze) in the device assembly.

(13) Gravity drainage is required on all installations. Below ground installations shall not be permitted for reduced pressure principle assemblies (detectors).

(14) Fire hydrants drains shall not be connected to the sanitary sewer, and fire hydrants shall not be installed in such manner that backsiphonage or backflow through the drain may occur.

(15) Where jockey (low volume-high pressure) pumps are utilized to maintain elevated pressure, as in fire protection system, the discharge of the pump shall be on the downstream side of any check valve or backflow prevention

assembly. Where the supply for the jockey pump is taken from the upstream supply side of the check valve or backflow prevention assembly a backflow prevention assembly of the same type(s) required on the main line shall be installed on the supply line.

(16) Fixed position, high volume line pumps shall be equipped with suction limiting control to modulate the pump if the residual line pressure reaches 20 psi. If line pressure drops below 20 psi, the pump will shut off to protect the distribution system. This shut off system must be tested annually for proper operation and report of the test must be sent to the office of cross-connection control. (1980 Code, § 8-409, as replaced by Ord. #2012-017, Dec. 2012)

18-310. Existing backflow prevention assemblies. (1) All presently installed backflow prevention assemblies which were previously acceptable to the State of Tennessee that complies with installation testing, and maintenance requirements of this policy/ordinance and in the sole discretion of the cross-connection control manager/coordinator or designee adequately protect the public water system from backflow and that were approved assemblies for the purpose described herein at the time of installation may be retained in service.

(2) Location or space requirements shall not be cause for relocation or replacement of any backflow prevention assembly that is presently installed in a vertical run of pipe shall be replaced, reinstalled, in an approved manner in a horizontal run of pipe.

(3) Whenever an existing assembly is moved from the present location, or when the inspector finds that the conditions of the assembly constitutes a health hazard, the unit shall be replaced by the backflow prevention assembly meeting the requirements of this policy/ordinance. (1980 Code, § 8-410, as replaced by Ord. #2012-017, Dec. 2012)

18-311. Assembly performance evaluations and testing. (1) All assemblies used to protect the public water system must be tested every twelve (12) months. In those instances where the cross-connection manager/coordinator deems the hazard to be great enough performance evaluation may be required at more frequent intervals.

(2) Any assembly not tested with twelve (12) month period will be deemed not approved and have a status of failed. The customer will be sent notification of that the assembly is not in compliance with this ordinance or policy.

(3) All assemblies must be deemed passed for each initial and subsequent annual performance evaluations to satisfy as approved backflow prevention assembly.

(4) All assemblies will be tested by backflow prevention assembly tester possessing a valid (see definition) certificate of competency in testing and evaluation backflow prevention assemblies issued by the State of Tennessee.

(5) All performance evaluations must be performed with an annually certified test kit.

(6) Certifications for test kits are valid for one (1) year after certification is performed. If the test kit is not decertified after one (1) year, it is deemed expired.

(7) Test kits must be certified annually and the backflow prevention assembly tester must show proof of certification from manufacturer-approved entities. No performance evaluations will be accepted from a backflow prevention assembly tester with an expired test kit certification.

(8) Proof of annual test kit certification and certificate of competency must be kept on file for each tester by water provider.

(9) Backflow prevention assembly testers must test and evaluate according to the latest division of water supply's latest approved procedures for reduced pressure principle assembly and the double check valve assembly.

(10) If any test does not meet the minimum requirements set forth in the approved testing procedure, the assembly is deemed failed and does not suffice as an approved backflow prevention device. If conditions around the assembly do not allow the assembly to be tested, the assembly fails the assembly performance evaluation and is marked failed on test report. (Examples would include assembly is submerged, test cocks missing or plugged, relief valve continually discharging.)

(11) Backflow prevention assemblies are deemed passed if all parts of the performance evaluation meet the requirements in the approved testing procedure.

(12) Each location requiring an assembly will have a documented backflow prevention assembly, if the assembly at the address cannot be identified or is not the same, the water provider will be notified and a determination of which assembly is used for protection of the water system. (All areas that need protection will be listed by address and location along with the serial number of device.)

(13) Test reports must be completely and accurately documented and the appropriate evaluation (passed or failed) determined from testing procedure. Any test report that is not recorded completely in the sections pertinent to the results of the performance evaluation tests will not be accepted by the public water system.

(14) All performance evaluations on file will be recorded on an (state and water system) approved test report.

(15) Assemblies must be tested when installed and after every repair. Backflow prevention assemblies on lawn irrigation systems must be tested when assemblies are placed in service after winterization (to prevent testing just prior to winterization). If lawn irrigation backflow assemblies are taken removed to winterize the system, upon startup of the system, the assemblies must be retested.

(16) Failure to maintain a backflow prevention assembly that is deemed passed shall be grounds for discontinuance of water service. The removal, bypassing, or altering of a protective device or installation, without the approval of the cross-connection control manager/coordinator or designee, thereof so as to render a device ineffective shall constitute grounds for discontinuance of water service. Water service to such premises shall not be restored until the customer has corrected or eliminated such conditions or defects to the satisfaction this ordinance/policy and the cross-connection control manager/coordinator or designee.

(17) The water system shall require the occupant of the premises to keep the backflow prevention assembly working properly and a status of passed. Repairs shall be made by qualified personnel acceptable to the water system within the time limits set forth by this policy. Expense of such repairs shall be borne by the owner or occupant of the premises. The failure to maintain a backflow prevention assembly in proper working order and a status of passed shall be grounds for discontinuance of water service.

(18) The backflow prevention assembly must be tested after every repair and have a status of passed to be in compliance with this policy/ ordinance.

(19) Cross-connection control manager/coordinator or designee shall have the right to inspect and test any assemblies whenever it is deemed necessary. Water service shall not be disrupted to the assembly without the knowledge of the occupant of the premises.

(20) Provision should be made for fire sprinkler testing; if third party testing is allowed, no problem, however if the utility or municipality should elect to test all assemblies an allowance should be given for fire sprinkler contractors to test in accordance to division of fire prevention regulations. Those with fire sprinkler license will also be required to have a valid certificate of competency and all other requirements set forth by this policy/ordinance.

(21) Any backflow prevention assembly tester found by the water system to be negligent in performing testing procedures or falsifying documentation in regards to a backflow prevention assembly will not be allowed continued approval to submit test reports. The water system may allow the backflow prevention assembly tester to perform testing at a later date at the discretion of the cross-connection control manager/coordinator or designee.

(22) Backflow prevention assembly testers must have approval from the Bluff City water system before any test reports are accepted. The Bluff City water system will issue a copy of the latest approved ordinance/policy from the Bluff City water system and require the signature of the tester acknowledging requirements and responsibilities before allowance of submittal of test reports.

(23) All performance evaluations, tests, and repairs shall be at the expense of the customer and shall be performed by backflow prevention assembly testers that satisfy all requirements of this ordinance/policy.

(24) Original records of evaluations and repairs shall be supplied to the cross-connection control manager/coordinator or designee for retention. (as added by Ord. #2012-017, Dec. 2012)

18-312. Corrections of violations. (1) Any customer having cross-connections, auxiliary intakes, bypasses or interconnection(s) in violation of this ordinance/policy shall, after a thorough investigation of existing conditions and an appraisal of the time required complete the work within the time designated by the cross-connection control manager/coordinator or designee, but in no case shall the time for correction exceed ninety (90) days for high and low hazards or fourteen (14) days for high risk high hazards.

(2) Failure to comply with any order of the cross-connection control manager/coordinator or designee within the time set out therein shall result in the termination of water service.

(3) Where cross-connections, auxiliary intakes, bypasses, or interconnections are found to constitute a high risk high hazard, the public water supply (criteria will be needed), the cross-connection control manager/coordinator or designee shall require prompt corrective action (within fourteen (14) days) to be taken to eliminate the threat. Expeditious steps shall be taken to disconnect the public water system from the customer's piping systems unless the extreme hazard is corrected immediately.

(4) Failure to correct conditions threatening the safety of the public water system as prohibited by this ordinance or Tennessee Code Annotated, § 68-221-711, within the time limits set by the cross-connection control manager/coordinator or designee or this ordinance/policy, shall be cause for denial or termination of water service. If proper protection is not provided after times set forth in this policy/ordinance, the cross-connection control manager/coordinator or designee shall give the customer written notification that water service is to be discontinued, and thereafter physically separate the public water system from the customer's system in such a manner that the two (2) systems cannot be connected by an unauthorized person.

(5) Direct language providing length of time for correction of violations for failed or nonexistent protection on extreme high hazard and high hazard and the letters sent. No more than ninety (90) days.

(6) In the event that a backflow prevention assembly is deemed failed (initial or annual performance evaluation), failure to install backflow prevention assemblies as requested by the water system, or there are deficiencies in the installation from failure to conform to the installation criteria specified in this ordinance or from deterioration, then the cross-connection control manager/coordinator or designee shall issue a written notice of failure or deficiency (within three (3) days). The time limit is dependent on risk of contamination and may not be greater than ninety (90) days. (as added by Ord. #2012-017, Dec. 2012)

18-313. Non-potable supplies. (1) Any water outlet connected to auxiliary water sources, industrial fluid systems, or other piping containing non-potable liquids or gases which could be used for potable or domestic purposes shall be labeled in a conspicuous manner as:

WATER UNSAFE FOR DRINKING

(2) The minimum acceptable sign shall have black letters at least one inch (1") high on red background.

(3) Color coding of piping in accordance with the Occupational Safety and Health Act guidelines may be required in locations where, in the judgment of the inspector, such color coding is necessary to identify and protect the potable water supply. (as added by Ord. #2012-017, Dec. 2012)

18-314. Conflicting provisions. If any provision of this ordinance/policy is found to conflict with any provision of any other ordinance/ policy, then the provision of the ordinance comprising this chapter shall control. That should any part, or parts of this ordinance/policy be declared invalid for any reason, no other part, or parts, of this chapter shall be affected thereby. (as added by Ord. #2012-017, Dec. 2012)

18-315. Penalties. Any person responsible for a violation of this policy/ordinance may be subject to a civil penalty of not less than ten dollars ($10.00) nor more than fifty dollars ($50.00) each day a violation occurs shall constitute a separate offense. In addition to the foregoing fines and penalties, the cross-connection control manager/coordinator or designee shall discontinue the public water service at any premise upon connection and service shall not be restored until such cross-connection, auxiliary intake, bypass, or interconnection has been discontinued.

Independent of and in addition to fines penalties imposed, the cross-connection control manager/coordinator may discontinue the public water supply service to any premises upon which there is found to be a cross-connection, auxiliary intake, bypass, or interconnection; and service shall not be restored until such cross-connection, auxiliary intake, bypass, or interconnection has been eliminated. (as added by Ord. #2012-017, Dec. 2012)

18-316. Responsibility for water system. (1) Notwithstanding any provisions of a plumbing code adopted by units of local government having jurisdiction the cross-connection control manager/coordinator or designee shall be responsible for protecting the water system from contamination or pollution due to implementation and enforcement of this policy. Such authority shall extend beyond service connection to whatever extent is necessary to meet the requirements of this policy/ordinance.

(2) The authority to terminate water service for violation of any provision of this policy/ordinance shall rest solely with the cross-connection control coordinator/manager, the assistant or designee shall have authority to take action to protect public health and safety.

(3) This section shall not be construed to prevent other officers or employees of the Bluff City Water System from terminating water service for failure to pay for water service or for violation any other provision of Bluff City Water System policy/ordinance. (as added by Ord. #2012-017, Dec. 2012)

18-317. Inspection and testing fees. (1) Fees for initial or annual certification of a backflow prevention assembly may be published by the office of the city manager based on the recommendation of the cross-connection control manager/coordinator to reflect the cost of processing such certification.

(2) In the event that a backflow prevention assembly is deemed failed after the initial and annual performance evaluations, or there are deficiencies in the installation either from failure to conform to the installation criteria specified in this ordinance/policy, or from deterioration, then the cross-connection control manager/coordinator or designee shall issue a written notice of failure or deficiency.

The cross-connection control manager/coordinator may waiver any fees and/or cost that should be appropriately relieved. (as added by Ord. #2012-017, Dec. 2012)

18-318. Thermal expansion control. A device for the control of thermal expansion shall be installed on the customer's water system where the thermal expansion of the water in the system will cause the water pressure to exceed the pressure setting of the pressure relief valve of the water heater. The thermal expansion device shall control the water pressure to prevent the pressure relief valve of the water heater from discharging. (as added by Ord. #2012-017, Dec. 2012)

18-319. Water heater temperature--pressure relief valves. All storage water heaters operation above atmospheric pressure shall be provided with an approved, self-closing (levered) pressure relief and temperature valve or combination thereof, except for nonstorage instantaneous heaters. Such valves shall be installed in the shell of the water heater tank or may be installed in hot water outlet, provided the thermo-bulb extends into the shell of the tank temperature relief valves shall be so located in the tank as to be actuated by water in the top one-eighth (1/8) of the tank served.

For installations with separate storage tank, said, said valve shall be installed on the tank and there shall not be any type of valve installed between the water heater and the storage tank. There shall not be a check valve or shut off valve between a relief valve and the heater or tank which it serves. The relief

valve shall not be used as a means of controlling thermal expansion. (as added by Ord. #2012-017, Dec. 2012)

18-320. Safety standards--duplicate equipment in parallel required. Where the use of water is critical to the continuation of normal operations or protection of life, property, or equipment, duplicate units shall be provided to avoid the necessity of discontinuing water service to test or repair a backflow prevention assembly. Until such time as a parallel unit has been installed where the continuance of service is critical, the cross-connection control manager/coordinator or designee shall notify the occupant of the premises, in writing, of plans to interrupt water service and arrange for a mutually acceptable time to test or repair the assembly. (as added by Ord. #2012-017, Dec. 2012)

CHAPTER 4

SEWER USE

SECTION

18-401. Purpose and policy. This chapter sets forth uniform requirements for the disposal of wastewater in the service area of the Town of Bluff City, Tennessee, wastewater treatment system. The objectives of this chapter are:

(1) To protect the public health;

(2) To provide problem free wastewater collection and treatment service;

(3) To regulate private disposal systems;

(4) To regulate holding tank disposal operations;

(5) To prevent the introduction of pollutants into the municipal wastewater treatment system, which will interfere with the system operation, which will cause the town's discharge to violate its National Pollutant Discharge Elimination System (NPDES) permit or other applicable state requirements, or which will cause physical damage to the wastewater treatment system facilities;

(6) To provide for full and equitable distribution of the cost of the wastewater treatment system;

(7) To enable the Town of Bluff City to comply with the provisions of the Federal Water Pollution Control Act, the General Pretreatment Regulations (40 CFR, Part 403), and other applicable federal, state laws and regulations;

(8) To improve the opportunity to recycle and reclaim wastewaters and sludges from the wastewater treatment system.

In meeting these objectives, this chapter provides that all persons in the service area of the Town of Bluff City must have adequate wastewater treatment either in the form of a connection to the municipal wastewater treatment system or, where the system is not available, an appropriate private disposal system. The chapter also provides for the issuance of permits to system

users, for the regulations of wastewater discharge volume and characteristics, for monitoring and enforcement activities; and for the setting of fees for the full and equitable distribution of costs resulting from the operation, maintenance, and capital recovery of the wastewater treatment system and from other activities required by the enforcement and administrative program established herein.

This chapter shall apply to the Town of Bluff City and to persons outside the town who are, by contract or agreement with the town users of the municipal wastewater treatment system. Except as otherwise provided herein, the city manager or his duly authorized representative shall administer, implement, and enforce the provisions of this chapter. (Ord. #97-016, Jan. 1998)

18-402. Definitions. Unless the context specifically indicates otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated:

(1) "Act or the Act" - The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended 33 U.S.C. 1251, et seq.

(2) "Approval authority" - The director in an NPDES state with an approved State Pretreatment Program and the Administrator of the EPA in a non-NPDES state or NPDES state without an Approved State Pretreatment Program.

(3) "Authorized representative of industrial user" - An authorized representative of an industrial user may be:

(a) a principal executive officer of at least the level of vice-president, if the industrial user is a corporation;

(b) a general partner or proprietor if the industrial user is a partnership or proprietorship, respectively;

(c) a duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

(4) "Biochemical oxygen demand (BOD)" - The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure for five (5) days at 20 centigrade expressed in terms of weight and concentration (milligrams per liter (mg/l)).

(5) "Building drain" - Shall be defined as the building drain which conveys wastewater from the building.

(6) "Categorical standards" - The National Categorical Pretreatment Standards or Pretreatment Standard.

(7) "Chemical oxygen demand (COD)." The measure of the oxygen equivalent of the organic matter of a sample susceptible to oxidation by the dichromate reflex method.

(8) "City" - The Town of Bluff City or the Board of Mayor and Aldermen, Town of Bluff City, Tennessee.

(9) "Compatible pollutant" - Shall mean BOD, suspended solids, oil and grease, pH, fecal coliform bacteria, and such additional pollutants as are now or may be in the future specified by the Town of Bluff City and controlled in this town's NPDES permit for its wastewater treatment works where sewer works have been designed and used to reduce or remove such pollutants.

(10) "Cooling water" - The water discharge from any use such as air conditioning, cooling, or refrigeration, or to which the only pollutant added is heat.

(11) "Control authority" - The term "control authority" shall refer to the "approval authority," defined hereinabove; or the manager if the city has an approved pretreatment program under the provisions of 40 CFR 403.11.

(12) "Customer" - Means any individual, partnership, corporation, association, or group who receives sewer service from the city under either an express or implied contract requiring payment to the city for such service.

(13) "Direct discharge" - The discharge of treated or untreated wastewater directly to the waters of the State of Tennessee.

(14) "Domestic wastewater" - Wastewater that is generated by a single family, apartment or other dwelling unit or dwelling unit equivalent or commercial establishment containing sanitary facilities for the disposal of wastewater and used for residential or commercial purposes only.

(15) "Environmental Protection Agency, or EPA" - The U. S. Environmental Protection Agency, or where appropriate, the term may also be used as a designation for the administrator or other duly authorized official of the said agency.

(16) "Garbage" - Shall mean solid wastes generated from any domestic, commercial or industrial source.

(17) "Grab sample" - A sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

(18) "Holding tank waste" - Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

(19) "Incompatible pollutant" - Shall mean any pollutant which is not a "compatible pollutant" as defined in this section.

(20) "Indirect discharge" - The discharge or the introduction of non-domestic pollutants from any source regulated under Section 307(b) or (c) of the Act, (33 U.S.C. 1317), into the POTW (including holding tank waste discharged into the system).

(21) "Industrial user" - A source of indirect discharge which does not constitute a "discharge of pollutants" under regulations issued pursuant to Section 402, of the Act (33 U.S.C. 1342).

(21a) "Local administrative officer." The administrative officer of the publicly owned treatment works is the city manager. The manager may designate person(s) to serve in his absence when he is unable to perform his

duties. Such instances shall include, but not be limited to, the manager being ill or on vacation.

(21b) "Local hearing authority." The local hearing authority of the town shall be the board of mayor and aldermen for the Town of Bluff City.

(22) "Interference" - The inhibition or disruption of the municipal wastewater processes or operations which contributes to a violation of any requirement of the city's NPDES permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with Section 405 of the Act, (33 U.S.C. 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the municipal wastewater treatment system.

(23) "Manager." The city manager or his duly authorized representative; the local administrative officer.

(24) "National categorical pretreatment standard or pretreatment standard" - Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act (33 U.S.C. 1347) which applies to a specific category of industrial users.

(25) "NPDES (National Pollution Discharge Elimination System)" - Shall mean the program for issuing, conditioning, and denying permits for the discharge of pollutants from point sources into navigable waters, the contiguous zone, and the oceans pursuant to Section 402 of the Federal Water Pollution Control Act as amended.

(26) "New source" - Any source, the construction of which is commenced after the publication of proposed regulations prescribing a Section 307(c) (33 U.S.C. 1317) categorical pretreatment standard which will be applicable to such source, if such standard is thereafter promulgated within 120 days of proposal in the Federal Register. Where the standard is promulgated later than 120 days after proposal, a new source means any source, the construction of which is commenced after the date of promulgation of the standard.

(27) "Person" - Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents, or assigns. The masculine gender shall include the feminine and the singular shall include the plural where indicated by the context.

(28) "pH" - The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

(28a) "Phenols." The total of the phenolic chemical compounds as analyzed by the AAAP Method and as defined in EPA publication "Methods for Chemical Analysis of Water and Wastes," EPA 600/4-79-020, March 1979.

(29) "Pollution" - The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

(30) "Pollutant" - Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharge into water.

(31) "Pretreatment or treatment" - The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical, biological processes, or process changes or other means, except as prohibited by 40 CFR Section 40.36(d).

(32) "Pretreatment requirements" - Any substantive or procedural requirement related to pretreatment other than a national pretreatment standard imposed on an industrial user.

(33) "Publicly owned treatment works (POTW)" - A treatment works as defined by Section 212 of the Act, (33 U.S.C. 1292) which is owned in this instance by the city. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For the purposes of this chapter, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the city who are, by contract or agreement with the city users of the city's POTW.

(34) "POTW treatment plant" - That portion of the POTW designed to provide treatment to wastewater.

(35) "Shall" - is mandatory; "May" - is permissive.

(36) "Significant industrial user" means

(a) Any discharger subject to National Categorical Pretreatment Standards; or

(b) Any non-categorical discharger that

(i) Has a reasonable potential in the opinion of the control authority or the approval authority to adversely affect the POTW's operation,

(ii) Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW's treatment plan, or

(iii) Discharges 25,000 gallons or more of process wastewater.

(37) "Slug" - Shall mean any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentrations of flows during normal operation or any discharge of whatever duration that causes the sewer to overflow or back up in an objectionable way or any discharge of whatever

duration that interferes with the proper operation of the wastewater treatment facilities or pumping stations.

(37a) "Small industrial user." Any discharger who is not a significant industrial user as defined herein and whose average daily discharge flow is 300 gallons or less and who can document the use of good management practice in the reduction of wastewater volume and strength.

(38) "State" - The State of Tennessee.

(39) "Standard industrial classification (SIC)" - A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1987.

(40) "Storm water" - Any flow occurring during or following any form of natural precipitation and resulting therefrom.

(41) "Storm sewer or storm drain" - Shall mean a pipe or conduit which carries storm and surface waters and drainage, but excludes sewage and industrial wastes. It may, however, carry cooling waters and unpolluted waters, upon approval of the manager.

(42) "Suspended solids" - The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquids and that is removable by laboratory filtering.

(43) "Toxic pollutant" - Any pollutant or combination of pollutants listed as toxic in regulations published by the Administrator of the Environmental Protection Agency under the provision of CWA 307(a) or other Acts.

(44) "Twenty-four (24) hour flow proportional composite sample" - A sample consisting of several sample portions collected during a 24-hour period in which the portions of a sample are proportioned to the flow and combined to form a representative sample.

(45) "User" - Any person who contributes, causes or permits the contribution of wastewater into the city's POTW.

(46) "Wastewater" - The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, whether treated or untreated, which is contributed into or permitted to enter the POTW.

(47) "Wastewater treatment systems" - Defined the same as POTW.

(48) "Waters of the state" - All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and other bodies of accumulation of water, surface or underground, natural or artificial, public or private, that are contained within, flow through, or border upon the state or any portion thereof. (Ord. #97-016, Jan. 1998)

18-403. Requirements for proper wastewater disposal. (1) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the service area of the

Town of Bluff City, any human or animal excrement, garbage, or other objectionable waste.

(2) It shall be unlawful to discharge to any waters of the state within the service area of the city any sewage or other polluted waters, except where suitable treatment has been provided in accordance with provisions of this chapter.

(3) Except as herein provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

(4) Except as provided in § 18-403(5)(6) and (7) below, the owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes situated within the city and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary sewer, in the Town of Bluff City, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of the chapter, within ninety (90) days after date of official notice to do so, provided that said public sewer is within two hundred (200) feet of any boundary line of said property or as provided further by the city's extension policy for development of property.

(5) A property owner may discharge wastewater to the waters of the state provided that he obtains an NPDES permit and meets all requirements of the Federal Clean Water Act, the NPDES permit, and any other applicable local, state, or federal statutes and regulations.

(6) Where a public sanitary sewer is not available under the provisions of § 18-403(4) above, the building sewer shall be connected to a private sewage disposal system complying with the provisions of §§ 18-407 and 18-08 of this chapter.

(7) The manager may waive a connection to a public sewer where his review of conditions including topography and accessibility shows such waiver would not violate the public interest or would not be harmful to the health and safety of the residents. (Ord. #97-016, Jan. 1998)

18-404. <u>Physical connection to public sewer</u>. (1) No person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof. The city shall make all connections to the public sewer upon the property owner first obtaining a written permit from the manager as required by §§ 18-413 or 18-414 of this chapter.

(2) All costs and expenses incident to the installation, connection, and inspection of the building sewer shall be borne by the owner. The owner shall indemnify the Town of Bluff City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(3) A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an

interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

(4) Old building sewers may be used in connection with new buildings only when they are found, on examination and tested by the manager to meet all requirements of this chapter. All others may be sealed to the specifications of the manager.

(5) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Street, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Town of Bluff City and manager.

(6) No person shall maintain or make connection of roof downspouts, exterior foundations drains, areaway drains, basement drains, or other sources of surface or ground water to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer. (Ord. #97-016, Jan. 1998)

18-405. Inspection of connections. The sewer connection and all building sewers from the building to the public sewer main line shall be inspected by the manager and subject to testing before the underground portion is covered. (Ord. #97-016, Jan. 1998)

18-406. Maintenance of building sewers. Each individual property owner or user of the POTW shall be entirely responsible for the maintenance of the building sewer located on private property. This maintenance will include repair or replacement of the building sewer as deemed necessary by the manager to meet specifications of the Town of Bluff City. (Ord. #97-016, Jan. 1998)

18-407. Availability of public sewer. (1) Where a public sanitary sewer is not available under the provisions of § 18-403(4) the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this section.

(2) Any residence, office, recreational facility, or other establishment used for human occupancy where the building drain is below the elevation to obtain a grade equivalent to 1/8 inch per foot in the building sewer but is otherwise accessible to a public sewer as provided in § 18-403, the owner shall provide a private sewage lift station which shall be dedicated to the town and built and/or installed to the town's specifications.

Any of the town's specifications may be waived by the board of mayor and aldermen if they find that a hardship exists that would make it impractical or impossible to follow the specifications. The hardship must be proven by clear

and convincing evidence and that such a waiver would not violate the public interest or would not be harmful to the health and safety of town residents. If a waiver is granted from the specifications, the property owner shall be responsible for the private sewage lift station and all of its maintenance. The cost of the installation, connection and inspection shall be born by the property owners and they shall indemnify the Town of Bluff City for any loss or damage that may be directly or indirectly occasioned by the installation and operation of the private sewage lift station.

(3) Where a public sewer becomes available, the building sewer shall be connected to said sewer within ninety (90) days after date of official notice to do so. The sewer service charge shall commence after connection. If a private sewage lift station is necessary, public sewer will be deemed unavailable, provided that the property owner's septic system is functioning properly. The sewer service charge shall commence after connection or expiration of ninety (90) day notice, whichever comes first. (Ord. #97-016, Jan. 1998, as amended by Ord. #98-014, Dec. 1998, and Ord. #2007-001, Jan. 2008)

18-408. <u>Requirements for private wastewater disposal</u>. (1) A private domestic wastewater disposal system may not be constructed within the Town of Bluff City unless and until a certificate is obtained from the manager stating that a public sewer is not accessible to the property and no such sewer is proposed for construction in the immediate future. No certificate shall be issued for any private domestic wastewater disposal system employing subsurface soil absorption facilities where the area of the lot is less than that specified by the Sullivan County Health Department.

(2) Before commencement of construction of a subsurface soil absorption facility, the owner shall first obtain written permission from the Sullivan County Health Department. The owner shall supply any plans, specifications, and other information as are deemed necessary by the Sullivan County Health Department.

(3) A subsurface soil absorption facility shall not be placed in operation until the installation is completed to the satisfaction of the Sullivan County Health Department. They shall be allowed to inspect the work at any stage of construction and, in any event, the owner shall notify the Sullivan County Health Department when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within a reasonable period of time after the receipt of notice by the Sullivan County Health Department.

(4) The type, capacity, location, and layout or a private sewage disposal system shall comply with all recommendations of the Department of Health and Environment of the State of Tennessee and/or the Sullivan County Health Department. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

(5) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the city.

(6) No statement contained in this section shall be constructed to interfere with any additional requirements that may be imposed by the Sullivan County Health Department. (Ord. #97-016, Jan. 1998)

18-409. Holding tank waste disposal permit. No person, firm, association or corporation shall clean out, drain, or slush any septic tank or any other type of wastewater or excreta disposal system, unless such person, firm, association, or corporation obtains approval from the manager to perform such acts or services and is licensed by the Sullivan County Health Department. Any person firm, association, or corporation desiring a permit to perform such services shall file an application on the prescribed form. Upon any such application, said approval shall be issued by the manager when the conditions of this chapter have been met and providing manager is satisfied the applicant has adequate and proper equipment to perform the services contemplated in a safe and competent manner. Any such approval granted shall be non-transferable. (Ord. #97-016, Jan. 1998)

18-410. Fees for holding tank waste disposal permit. For each permit issued under the provision of section 18-409, a fee, therefore, shall be paid to the city to be set as specified in section 18-444. (Ord. #97-016, Jan. 1998)

18-411. Designated disposal locations. The manager shall designate approved locations for the emptying and cleansing of all equipment used in the performance of the services rendered under the permit herein provided for, and it shall be a violation thereof for any person, firm, association or corporation to empty or clean such equipment at any place other than a place so designated. (Ord. #97-016, Jan. 1998)

18-412. Revocation of permit. Failure to comply with all provisions of this chapter shall be sufficient cause for the revocation of such approval by the manager. The possession within the Town of Bluff City by any person of any motor vehicle equipped with a body type and accessories of a nature and design capable of servicing a wastewater septic tank or excreta disposal systems shall be prima facie evidence that such person is engaged in the business of cleaning, draining, or flushing septic tanks or other wastewater or excreta disposal systems within the Town of Bluff City. (Ord. #97-016, Jan. 1998)

18-413. Applications for discharge of domestic wastewater. All new users or prospective users which generate domestic wastewater shall make application to the manager for written authorization to discharge to the municipal wastewater treatment system. Applications shall be required form all new discharges as well as for any existing discharge desiring additional

service. Connection to the municipal sewer shall not be made until the application is received and approved by the manager, the tap fee paid in accordance with requirement of section 18-444, the building sewer installed, and an inspection has been performed as required in section 18-405.

The receipt by the Town of Bluff City of a prospective customer's application for service shall not obligate the Town of Bluff City to render the service. If the service applied for cannot be supplied in accordance with this chapter the Town of Bluff City's rules and regulations and general practice, the connection charge will be refunded in full, and there shall be no liability of the Town of Bluff City to the applicant for such service, except that conditional waivers for additional services may be granted by the manager for interim periods if compliance may be assured within a reasonable period of time. (Ord. #97-016, Jan. 1998)

18-414. Industrial wastewater discharge permits. (1) General requirements. All industrial users proposed to connect to or to contribute to the POTW shall obtain a wastewater discharge permit before connecting to or contributing to the POTW. All existing industrial users connected to or contributing to the POTW shall obtain a wastewater discharge permit within 180 days after the effective date of this chapter.[1]

(2) Applications. Applications for wastewater discharge permits shall be required as follows:

(a) Users required to obtain a wastewater discharge permit shall complete and file with the manager application in the form prescribed by the manager, and accompanied by appropriate fee. Existing users shall apply for a wastewater discharge permit within 60 days after the effective date of this chapter,[1] and proposed new users shall apply at least 90 days prior to connecting or to contributing to the POTW.

(b) The application shall be in the prescribed form of the city and shall include; but not be limited to the following information: name, address and SIC number of applicant; wastewater constituents and characteristics; discharge variations - daily, monthly, seasonal and 30 minute peaks; a description of all toxic material handled on the premises; site plans, floor plans, mechanical and plumbing plans and details showing all sewers and appurtenances by size, location, and elevation; a description of existing and proposed pretreatment and/or equalization facilities and any other information deemed necessary by the manager.

(c) Any user who elects or is required to construct new or additional facilities for pretreatment shall, as part of the application for

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[1]These provisions were taken from Ordinance #97-016, which passed second reading January 15, 1998.

wastewater discharge permit, submit plans, specifications, and other pertinent information relative to the proposed construction to the manager for approval. Plans and specifications submitted for approval must bear the seal of a professional engineer registered to practice engineering in the State of Tennessee. A wastewater discharge permit shall not be issued until such plans and specifications are approved. Approval of such plans and specifications shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city under the provisions of this chapter.

(d) If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the application shall include the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. For the purpose of this paragraph, "pretreatment standard" shall include either a national pretreatment standard or a pretreatment standard imposed by sections 18-416, 18-417, or 18-418 of this chapter.

(e) The following conditions shall apply to the schedule required by paragraph (2)(d) of this section and section 18-431:

(i) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the industrial user to meet the applicable categorical pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.). No increment of progress shall exceed 9 months.

(ii) Not later than 14 days following each date in the schedule and the final date for compliance, the industrial user shall submit a progress report to the control authority including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the industrial user to return the construction to the schedule established. In no event shall more than 9 months elapse between such progress reports to the control authority.

(f) The manager will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the manager may issue a wastewater discharge permit subject to terms and conditions provided herein.

(g) The receipt by the manager of a prospective customer's application for wastewater discharge permit shall not obligate the city to

render the wastewater collection and treatment service. If the service applied for cannot be supplied in accordance with this chapter or the rules and regulations and general practice, the application shall be rejected and there shall be no liability of the city to the applicant of such service.

(h) The manager will act only on applications containing all the information required in this section. Persons who have filed incomplete application will be notified by the manager that the application is deficient and the nature of such deficiency and will be given thirty (30) days to correct the deficiency. If the deficiency is not corrected within thirty (30) days or within such extended period as allowed by the manager, the manager shall deny the application and notify the applicant in writing of such action.

(3) Permit conditions. Wastewater discharge permits shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges and fees establishing by the city. Permits may contain the following:

(a) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a public sewer;

(b) Limits on the average and maximum wastewater constituents and characteristics;

(c) Limits on average and maximum rate and time of discharge or requirements for equalization;

(d) Requirements for installation and maintenance of inspections and sampling facilities;

(e) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests and reporting schedule;

(f) Compliance schedules;

(g) Requirements for submission of technical reports or discharge monitoring reports;

(h) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the city and affording city access thereto;

(i) Requirements for notification of the city of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system;

(j) Notification requirements for slug discharges, including any discharge that would violate a prohibition under section 18-416.

(k) Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedules may not extend the compliance date beyond applicable federal deadlines;

(l) Statement of duration (in no case more than five years);

(m) Statement of non-transferability without, at a minimum, prior notification to the POTW; and/or

(n) Other conditions as deemed appropriate by the city to ensure compliance with this chapter.

(4) Permit modifications. Within nine months of the promulgation of a National Categorical Pretreatment Standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. A user with an existing wastewater discharge permit shall submit to the manager within 180 days after the promulgation of an applicable Federal Categorical Pretreatment Standard the information required by this section 18-414(2)(b) and 18-414(2)(c). The terms and conditions of the permit may be subject to modification by the manager during the term of the permit as limitations or requirements are modified or just cause exists. The user shall be informed of any proposed changes in this permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(5) Permits duration. Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of 180 days prior to the expiration of the user's existing permit.

(6) Permit transfer. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the approval of the manager. Such permit transfer shall not be unduly withheld.

(7) Revocation of permit. Any permit issued under the provisions of this chapter is subject to be modified, suspended, or revoked in whole or in part during its term for cause including, but not limited to, the following:

(a) Violation of any terms or conditions of the wastewater discharge permit or other applicable federal, state, or local law or regulation.

(b) Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts.

(c) A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.

(d) Intentional failure of a user to accurately report the discharge constituents and characteristics or to report significant changes in plant operations or wastewater characteristics.

(8) Review of permit by user. The proposed permit shall be made available to the user 30 days before its effective date with the intention of providing a comment period on the permit conditions. Comments should be received by the manager within one week of the effective date of the permit. If

no requests for a change in the proposed permit has been presented to the manager by the effective date of the permit, the manager shall consider that the permit is acceptable to the user. (Ord. #97-016, Jan. 1998)

18-415. Confidential information. All information and data on a user obtained from reports, questionnaire permit application, permits and monitoring programs and from inspections shall be available to the public or any other governmental agency without restriction unless the user specifically requests the contrary and is able to demonstrate to the satisfaction of the manager that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets of the user.

When requested by the person furnishing the report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available to governmental agencies for use related to this chapter or the city's or user's NPDES permit. Provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

Information accepted by the manager as confidential shall not be transmitted to any governmental agency or to the general public by the manager until and unless prior and adequate notification is given to the user. (Ord. #97-016, Jan. 1998)

18-416. General discharge prohibitions. No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation and performance of the POTW. These general prohibitions apply to all such users of a POTW whether or not the user is subject to National Categorical Pretreatment Standards or any other national, state, or local Pretreatment Standards or Requirements. A user may not contribute the following substances to any POTW:

(1) Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time, shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent (5%) nor any single reading over ten percent (10%) of the lower explosive limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromate, carbides, hydrides and sulfides and any other substances which the city, the state or EPA has notified the user is a fire hazard or a hazard to the system.

(2) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities but not limited to: grease, garbage with particles greater than one-half inch (½") in any dimension, paunch manure, bones, hair, hides, or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues from refining, or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.

(3) Any wastewater having a pH less than 5.0 or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW.

(4) Any wastewater containing any toxic pollutants, chemical elements, or compounds in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitations set forth in a categorical pretreatment standard. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to Section 307(a) of the Act.

(5) Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance, hazard to life, are sufficient to prevent entry into the sewers for maintenance and repair.

(6) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in non-compliance with sludge use or under Section 405 of the Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.

(7) Any substance which will cause the POTW to violate its NPDES permit or the receiving water quality standards.

(8) Any wastewater causing discoloration of the wastewater treatment plant effluent to the extent that the receiving stream water quality requirements would be violated, such as, but not limited to, dye wastes and vegetable tanning solutions.

(9) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, or damages to the collection system, but in no case wastewater with a temperature at the point of introduction into the POTW which exceeds 60°C (140°F).

(10) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which will cause interference to the POTW.

(11) Any waters or wastes causing an unusual volume of flow or concentration of waste constituting "slug" as defined herein.

(12) Any wastewater containing any radioactive wastes or isotopes of such halflife or concentration as may exceed limits established by the manager in compliance with applicable state or federal regulations.

(13) Any wastewater which causes a hazard to human life or creates a public nuisance.

(14) Any trucked or hauled pollutants, except as discharge points designated by the POTW in accordance with sections 18-409 through 18-412.

(15) Any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the manager and the Tennessee Department of Health and Environment. Industrial cooling water or unpolluted process waters may be discharged on approval of the manager and the State of Tennessee to a storm sewer or natural outlet.

(16) It shall be unlawful to discharge into the city sewer system water other than from a metered water supply, without written permission from the city.

A user, except a small industrial user where explicitly noted and whose permit is issued subject to section 18-421, may not contribute the following substances to the POTW:

(17) Any wastewater having a pH higher than 10.0, or greater as permitted for small industrial user's, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW.

(18) Any waters or wastes containing animal based fats, wax, grease, or oil, whether emulsified or not, in excess of daily average of three hundred and seventy-five (375) mg/l, or greater as permitted for small industrial users, or containing substances which may solidify or become viscous at temperature between thirty-two (32) and one hundred forty (140) degrees (0 and 60 degrees Centigrade).

(19) Any wastewaters containing mineral based oils in excess of one hundred (100) mg/l, or greater as permitted for small industrial users.

(20) Any wastewaters containing biochemical oxygen demand concentration in excess of 2800 mg/l, or greater as permitted for small industrial users, in a 24 hour composite sample.

(21) Any wastewaters containing total suspended solids concentration in excess of 2800 mg/l, or greater as permitted for small industrial users, in a 24-hour composite sample. (Ord. #97-016, Jan. 1998)

18-417. <u>Restrictions on wastewater strength</u>. No person or user shall discharge wastewater which exceeds the following set of standards (Table

A - User Discharge Regulations) unless an exception is permitted as provided in this chapter. These user discharge restrictions are established at concentrations which allow a user variations in his wastewater strength throughout a day so long as the average daily limits and maximum daily limits of the user's permit are not exceeded. A grab sample taken at any instant shall not contain any containment I excess of the respective instantaneous maximum concentrations found in Table A. In addition to these instantaneous maximum concentrations, a user in his permit may be assigned average daily limits and/or maximum daily limits based on a methodology used by the city to allocate waste loads to users and to protect the POTW. In such case, the user shall not discharge wastewater which exceeds any of the limits of his/her permit or of this chapter. Dilution of any wastewater discharge for the purpose of satisfying these requirements shall be considered in violation of this chapter.

TABLE A - USER DISCHARGE RESTRICTIONS

Pollutant	Instantaneous Maximum* Concentration (mg/l)
Arsenic	9.3
Cadmium	0.69
Chromium (total)	16.8
Copper	9.4
Cyanide	6.5
Lead	3.0
Mercury	0.18
Nickel	3.9
Phenols (by 4AAP Method)	3.20
Silver	5.3
Zinc	11.4

*Based on a single grab sample at any time. (Ord. #97-016, Jan. 1998)

18-418. Protection of treatment plant influent. The manager shall monitor table (Table B - Plant Protection Criteria). Industrial users shall be subject to reporting and monitoring requirements regarding these parameters as set forth in this chapter. In the event that the influent at the POTW reaches or exceeds 80 percent of the levels established by this table, the manager shall initiate technical studies to determine the cause of the influent violation and shall recommend to the city the necessary remedial measures, including, but not limited to, recommending the establishment of new or revised pretreatment levels for these parameters. The manager shall also recommend changes to any of these criteria in the event that: the POTW effluent standards are changed,

there are changes in any applicable law or regulation affecting same, or changes are needed for more effective operation of the POTW.

TABLE B - PROTECTION CRITERIA

Parameter	Maximum Concentration (mg/l) (24-Hour Flow Proportional Composite Sample)	Maximum Instantaneous Concentration (mg/l) (Grab Sample)
Aluminum Dissolved (Al)	15.0	30.0
Arsenic (As)	0.11	0.22
Boron (B)	0.05	0.10
Cadmium (Cd)	0.005	0.01
Chromium, Total	0.35	0.70
Copper (Cu)	0.18	0.36
Cyanide (CN)**	0.14	0.28
Lead (Pb)	0.09	0.18
Manganese (Mn)	10.0	20.0
Mercury (Hg)	0.007	0.014
Nickel (Ni)	0.12	0.24
Phenols**	0.20	0.40
Silver (Ag)	0.08	0.16
Toluene**	0.05	0.10
Zinc (Zn)	0.34	0.68
COD	*	*
BOD	*	*

* Not to exceed the design capacity of treatment works.

** For these parameters a minimum of 4 grab samples must be used in lieu of a flow proportional composite sample. (Ord. #97-016, Jan. 1998)

18-419. Federal categorical pretreatment standards. Upon the promulgation of the federal categorical pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under the chapter for sources in that subcategory, shall immediately supersede the limitations imposed under this chapter. The manager shall notify all affected users of the applicable reporting requirements under 40 CFR, Section 403.12. (Ord. #97-016, Jan. 1998)

18-420. Right to establish more restrictive criteria. No statement in this chapter is intended or may be construed to prohibit the manager from establishing specific wastewater discharge criteria more restrictive where wastes are determined to be harmful or destructive to the facilities of the POTW or to create a public nuisance, or to cause the discharge of the POTW to violate effluent or stream quality standards, or to interfere with the use or handling of

sludge, or to pass through the POTW resulting in a violation of the NPDES permit, or to exceed industrial pretreatment standards for discharge to municipal wastewater treatment systems as imposed or as may be imposed by the Tennessee Department of Health and Environment and/or the United States Environmental Protection Agency. (Ord. #97-016, Jan. 1998)

18-421. Special agreements. Noting in this section shall be construed so as to prevent any special agreement or arrangement between the city and any used of the wastewater treatment system whereby wastewater of unusual strength or character is accepted into the system and specially treated subject to any payments or user charges as may be applicable. The making of such special agreements or arrangements between the city and the user shall be strictly limited to the capability of the POTW to handle such wastes without interfering with unit operations or sludge use and handling or allowing the pass through of pollutants which would result in violation of the NPDES permit. No special agreement or arrangement may be made without documentation by the industry of the use of good management practice in the reduction of wastewater volume and strength. (Ord. #97-016, Jan. 1998)

18-422. Exceptions to discharge criteria. (1) Application for exception. Non-residential users of the POTW may apply for a temporary exception to the prohibited and restricted wastewater discharge criteria listed in §§ 18-416 and 18-417 of this chapter. Exceptions can be granted according to the following guidelines:

(a) The manager shall allow applications for temporary exceptions at any time. However, the manager shall not accept an application if the applicant has submitted the same or substantially similar application within the preceding year and the same has been denied by the Town of Bluff City.

(b) All applications for an exception shall be in writing, and shall contain sufficient information for evaluation of each of the factors to be considered by the manager in his review of the application. Any appeals shall be presented to the board of mayor and aldermen. The decision by this board of mayor and aldermen shall be considered final.

(2) Conditions. All exceptions granted under this paragraph shall be temporary and subject to revocation at any time by the manager upon reasonable notice.

The user requesting the exception must demonstrate to the manager that he is making a concentrated and serious effort to maintain high standards of operation control and housekeeping levels, etc., so that discharges to the POTW are being minimized. If negligence is found, permits will be subject to termination. The user requesting the exception must demonstrate that compliance with stated concentration and quantity standards is technically or economically infeasible and the discharge, if accepted, will not:

(a) Interfere with the normal collection and operation of the wastewater treatment system;

(b) Limit the sludge management alternatives available and increase the cost of providing adequate sludge management; or

(c) Pass through the POTW in quantities and/or concentrations that would cause the POTW to violate its NPDES permit.

The user must show that the exception, if granted, will not cause the discharges to violate its in-force federal pretreatment standards unless the exception is granted under the provisions of the applicable pretreatment regulations.

A surcharge shall be applied to any exception granted under this subsection. These surcharges shall be applied for that concentration of the pollutant for which the variance has been granted in excess of the concentration stipulated in this chapter based on the average daily flow of the user.

(3) Review of application by the manager. All applications for an exception shall be reviewed by the manager. If the application does not contain sufficient information for complete evaluation, the manager shall notify the applicant of the deficiencies and request additional information. The applicant shall have thirty (30) days following notification by the manager to correct such deficiencies and thirty (30) days following notification by the manager to correct such deficiencies and thirty (30) more days if approval is request from the state. This thirty (30) day period may be extended by the manager upon application and for just cause shown. Upon receipt of a complete application, the manager shall evaluate same within thirty (30) days and shall submit his recommendations to the board of mayor and aldermen at its next regularly scheduled meeting.

(4) Review of application by the city. The board of mayor and aldermen shall review and evaluate all applications for exceptions and shall take into account the following factors:

(a) Whether or not the applicant is subject to a National Pretreatment Standard containing discharge limitations more stringent than those in sections 18-416, 18-417, and 18-418 and grant an exception only if such exception may be granted within limitations of applicable federal regulations;

(b) Whether or not the exception would apply to discharge of a substance classified as a toxic substance under regulations promulgated by the Environmental Protection Agency under the provisions of section 307(a) of the Act (33 U.S.C. 1317), and then grant an exception only if such exception may be granted within the limitations of applicable federal regulations;

(c) Whether or not the granting of an exception would create conditions that would reduce the effectiveness of the treatment works taking into consideration the concentration of said pollutant in the

treatment works' influent and the design capability of the treatment works;

(d) The cost of pretreatment or other types of control techniques which would be necessary for the user to achieve effluent reduction, but prohibitive costs alone shall not be the basis for granting an exception;

(e) The age of equipment and industrial facilities involved to the extent that such factors affect the quality or quantity of wastewater discharge;

(f) The process employed by the user and process changes available which would affect the quality or quantity of wastewater discharge;

(g) The engineering aspects of various types of pretreatment or other control techniques available to the user to improve the quality or quantity of wastewater discharge. (Ord. #97-016, Jan. 1998)

18-423. Accidental discharges. (1) Protection from accidental discharge. All industrial users shall provide such facilities and institute such procedures as are reasonably necessary to prevent or minimize the potential for accidental discharge into the POTW of waste regulated by this chapter such as from liquid or raw material storage areas, from truck and rail car loading and unloading areas, from in-plant transfer or processing and materials handling areas, and from diked areas or holding ponds of any waste regulated by this chapter. The wastewater discharge permit of any user who has a history of significant leaks, spills, or other accidental discharge of waste regulated by this chapter shall be subject on a case-by-case basis to a special permit condition or requirement for the construction of facilities and/or establishment of procedures which will prevent or minimize the potential for such accidental discharge. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the user's expense. Detailed plans showing the facilities and operating procedures shall be submitted to the manager before the facility is constructed.

The review and approval of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility to provide the protection necessary to meet the requirements of this chapter.

(2) Notification of accidental discharge. Any person causing or suffering from any accidental discharge shall immediately notify the manager (or his designated official) by telephone to enable countermeasures to be taken by the manager to minimize damage to the POTW, the health and welfare of the public, and the environment.

This notification shall be followed, within five (5) days of the date of occurrence, by a detailed written statement describing the cause of the accidental discharge and the measures being taken to prevent future occurrence.

Such notification will not relieve the user of liability for any expense loss, or damage to the POTW, fish kills, or any other damage to person or property;

nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this chapter or state or federal law.

(3) Notice to employees. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.

(4) Slug control plan. At least once every two years, the POTW shall evaluate whether each significant industrial user needs a plan to control accidental or slug discharges. The results of such activities shall be available to the approval authority upon request. If the POTW decides that an accident or slug control plan is needed, the plan shall contain, at a minimum, the following elements:

(a) Description of discharge practices, including non-routine batch discharges;

(b) Description of stored chemicals;

(c) Procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate a prohibition under section 18-416, with procedures for follow-up written notification within five days;

(d) Any necessary procedures to prevent accidental spills, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, and worker training;

(e) Any necessary measures for building containment structures or equipment;

(f) Any additional measures necessary for containing toxic organic pollutants (including solvents);

(g) Any necessary procedures and equipment for emergency response;

(h) Any necessary follow-up practices to limit the damage suffered by the treatment plant or the environment. (Ord. #97-016, Jan. 1998)

18-424. Monitoring facilities. The installation of a monitoring facility shall be required for all industrial users having wastes which receive pretreatment, are otherwise altered or regulated before discharge, or are unusually strong and thereby subject to a surcharge. Monitoring facility shall be a manhole or other suitable facility approved by the manager.

When, in the judgment of the manager, there is a significant difference in wastewater constituents and characteristics produced by different operations of a single user the manager may require that separate monitoring facilities be installed for each separate source of discharge.

Monitoring facilities that are required to be installed shall be constructed and maintained at the user's expense. The purpose of the facility is to unable inspection, sampling and flow measurement of wastewater produced by a user.

If sampling or metering equipment is also required by the manager, it shall be provided and installed at the user's expense. All sampling and metering equipment shall be approved by the manager before installation.

The monitoring facility will normally be required to be located on the user's premises outside of the building. The manager may, however, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street right-of-way with the approval of the public agency having jurisdiction of that right-of-way and located so that it will not be obstructed by landscaping or parked vehicles.

There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

Whether constructed on public or private property, the monitoring facility shall be constructed in accordance with the manager's requirements and all applicable local agency construction standards and specifications. When, in the judgment of the manager, an existing user requires a monitoring facility, the user will be so notified in writing. Construction must be completed within 180 days following written notification unless an extension is granted by the manager. (Ord. #97-016, Jan. 1998)

18-425. <u>Inspection and sampling</u>. The manager shall inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the city or a representative ready access at all reasonable times to all parts of the premises for the purpose of inspection, sampling, records examination or in the performance of any of their duties. The city, approval authority and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that, upon presentation of suitable identification, personnel from the city, approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibility. The manager or his representatives shall have no authority to inquire into any manufacturing process beyond that point having a direct bearing on the level and sources of discharge to the sewers, waterways, or facilities for waste treatment. (Ord. #97-016, Jan. 1998)

18-426. Compliance date report. Within ninety (90) days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to Pretreatment Standards and Requirements shall submit to the manager a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user facility which are limited by such pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the industrial user and certified to by a qualified professional, in accordance with 40 CFR 403.12(b)(6) and (l). (Ord. #97-016, Jan. 1998)

18-427. Periodic compliance reports. (1) Any user subject to a pretreatment standard, after the compliance date of such pretreatment standard, or, in the case of a new source, after commencement of the discharge into the POTW, shall submit to the manager during the months of March and September, unless required more frequently in the pretreatment standard or by the manager, a report indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards. In addition, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow. At the discretion of the manager and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the manager may agree to alter the months during which the above reports are to be submitted.

(2) The manager may impose mass limitations on users where the imposition of mass limitations are appropriate. In such cases, the report required by subparagraph (1) of this paragraph shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user.

(3) The reports required by this section shall include certification requirements per 40 CFR 403.12(1) and shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the manager, of pollutants contained therein which are limited by the applicable pretreatment standard. All analyses shall be performed in accordance with procedures established by the administrator pursuant to Section 304(g) of the Act and contained in 40 CFR, Part 136 and amendments thereto or with any other test procedures approved by the manager. Sampling shall be performed in accordance with 40 CFR 403.12. Analyses of these samples shall be conducted by an independent laboratory approved by the manager or by on premises

analysis for industrial users who can satisfactorily demonstrate such capabilities to the manager. (Ord. #97-016, Jan. 1998)

18-428. Maintenance of records. Any industrial user subject to the reporting requirements established in this section shall maintain records of all information resulting from any monitoring activities required by this section. Such records shall include for all samples:

(1) A chain of custody form acceptable to the board which includes the date, exact place, method, time of sampling, the names of the persons taking the samples, and a record of handling up to and including delivery to and receipt by an analytical laboratory.

(2) The dates analyses were performed;

(3) Who performed the analyses;

(4) The analytical techniques/methods used; and

(5) The results of such analyses.

The industrial user subject to the reporting requirements established in this section shall be required to retain for a minimum of three (3) years all records of monitoring activities and results (whether or not such monitoring activities are required by this section) and shall make such records available for inspection and copying by the manager, director of the division of water quality control of the Tennessee Department of Health and Environment, or the Environmental Protection Agency. This period of retention shall be extended during the course of any unresolved litigation regarding the industrial user or when required by the manager, the approval authority, or the environmental protection agency. (Ord. #97-016, Jan. 1998)

18-429. Safety. While performing the necessary work on private properties, the manager or duly authorized employees of the city shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to employees of the city or its agents and the city shall indemnify the company against loss or damage to its property by employees of the city or its agents and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the monitoring and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions. (Ord. #97-016, Jan. 1998)

18-430. Complaints and orders. Whenever the local administrative officer of any pretreatment agency has reason to believe that a violation of any provision of the pretreatment program of the pretreatment agency or orders of the local hearing authority issued pursuant thereto has occurred, is occurring, or is about to occur, the local administrative officer acting in accordance with the enforcement response plan may cause a written complaint to be served upon the alleged violator or violators. The complaint shall specify the provision or

provisions of the pretreatment program or order alleged to be violated or about to be violated, the facts alleged to constitute a violation thereof, may order that necessary corrective action be taken within a reasonable time to be prescribed in such order, and shall inform the violators of the opportunity for a hearing before the local hearing authority. One or more of the following orders may be issued for a given violation:

(1) Cease and desist order. When the manager finds that a discharge of wastewater has taken place in violation of prohibitions or limitations of this chapter, or the provisions of a wastewater discharge permit, the manager may issue an order to cease and desist, and direct that these persons not complying with such prohibitions, limits, requirements, or provisions to:

(a) Immediately halt illegal or unauthorized discharges;

(b) Surrender his applicable user's permit if ordered to do so after a show cause hearing.

(2) Compliance order. The manager may issue an order to the noncompliant industrial user to achieve or restore compliance with their permit by a date specified in the order. The compliance order may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including, but not limited to, the installation and proper operation of pretreatment technology, additional self-monitoring, and management practices.

(3) Consent order. The manager is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the industrial user responsible for the noncompliance. Such orders will include specific action to be taken by the industrial user to correct the noncompliance within a time period also specified by the order.

(4) Show cause order. (a) The manager may order any user who causes or allows an unauthorized discharge to enter the POTW to show cause before the manager why the proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place of a hearing to be held by the manager regarding the violation, the reasons why the action is being taken, the proposed enforcement action, and directing the user to show cause before the manager why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least fifteen (15) days before the hearing.

(b) The manager may itself conduct the hearing and take the evidence, or may designate the wastewater treatment plant supervisor or pretreatment coordinator to:

(i) Issue in the name of the city notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings.

(ii) Take the evidence.

(iii) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the manager for action thereon.

(c) At any hearing held pursuant to this chapter, testimony taken must be under oath and recorded. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the charge set by the manager to cover the costs of preparation.

(d) After the manager has reviewed the evidence, he may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices, or other related appurtenances shall have been installed on existing treatment facilities, and that these devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.

Failure of the manager to issue any order to violating user shall not in any way relieve the user from any consequences of a wrongful or illegal discharge.

Any order shall become final and not subject to review unless the person or persons named therein request by written petition a hearing before the local hearing authority as provided in § 18-432 no later than thirty (30) days after the date such order is served; provided, however, that the local hearing authority may review such final order on the same grounds upon which a court of the state may review default judgments. (Ord. #97-016, Jan. 1998)

18-431. <u>Submission of time schedule</u>. When the manager finds that a discharge of wastewater has been taking place in violation of prohibitions or limitations prescribed in this chapter, or wastewater source control requirements, effluent limitations of pretreatment standards, or the provisions of a wastewater discharge permit, the manager shall require the user to submit for approval, with such modifications as it deems necessary, a detailed time schedule of specific actions which the user shall take in order to prevent or correct a violation of requirements. Such schedule shall be submitted to the manager within 30 days of the issuance of any order and shall comply with section 18-414(2)(e). (Ord. #97-016, Jan. 1998)

18-432. <u>Pretreatment enforcement hearings and appeals</u>. The local hearing authority shall have and exercise the power, duty, and responsibility to hear appeals from orders issued and penalties or damages assessed by the local administrative officer, or permit revocations or modifications by him; and affirm modify, or revoke such actions or orders of the local administrative officer. Any hearing or rehearing brought before the local hearing authority shall be conducted in accordance with the following:

(1) Upon receipt of a written petition from the alleged violator pursuant to this section, the local administrative officer shall give the petitioner thirty (30) days' written notice of the time and place of the hearing, but in no case shall such hearing be held more than sixty (60) days from the receipt of the written petition, unless the local administrative officer and the petitioner agree to a postponement;

(2) The hearing herein provided may be conducted by the local hearing authority at a regular or special meeting. A quorum of the local hearing authority must be present at the regular or special meeting in order to conduct the hearing herein provided;

(3) A verbatim record of the proceedings of such hearings shall be taken and filed with the local hearing authority, together with the findings of fact and conclusions of law made pursuant to subdivision (3) if this subsection. The transcript so recorded shall be made available to the petitioner or any party to a hearing upon payment of a charge set by the local administrative officer to cover the costs of preparation;

(4) In connection with the hearing, the chairman shall issue subpoenas in response to any reasonable request by any party to the hearing requiring the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing. In case of contumacy or refusal to obey a notice of hearing or subpoena issued under this section, the chancery court of the county in which the pretreatment agency is located shall have jurisdiction upon the application of the local hearing authority or the local administrative officer to issue an order requiring such person to appear and testify or produce evidence as the case may require and any failure to obey such order of the court may be punished by such court as contempt thereof;

(5) Any member of the local hearing authority may administer oaths and examine witnesses;

(6) On the basis of the evidence produced at the hearing, the local hearing authority shall make findings of fact and conclusions of law and enter such decisions and orders as in its opinion will best further the purposes of the pretreatment program and shall give written notice of such decisions and orders to the alleged violator. The order issued under this subsection shall be issued no later than thirty (30) days following the close of the hearing by the person or persons designated by the chairman;

(7) The decision of the local hearing authority shall become final and binding on all parties unless appealed to the courts as provided in subsection (2); and

(8) Any person to whom an emergency order is directed pursuant to section 18-434 shall comply therewith immediately but on petition to the local hearing authority shall be afforded a hearing as soon as possible, but in no case shall such hearing be held later than three (3) days from the receipt of such petition by the local hearing authority.

An appeal may be taken from any final order or other final determination of the local hearing authority by any party, including the pretreatment agency, who is or may be adversely affected thereby, the chancery court pursuant to the common law write of certiorari set out in paragraph 27-8-101 of the Tennessee Code Annotated, within sixty (60) days from the date such order or determination is made. (Ord. #97-016, Jan. 1998)

18-433. Legal action. If any person discharges sewage, industrial wastes, or other wastes into the city's wastewater disposal system contrary to the provisions of this chapter, federal or state pretreatment requirements, or any order of the Town of Bluff City, Tennessee the city's attorney may commence an action for appropriate legal and/or equitable relief in the chancery court of this county. (Ord. #97-016, Jan. 1998)

18-434. Emergency termination of sewer service. In the event of an actual or threatened discharge to the POTW of any pollutant which in the opinion of the manager presents or may present an imminent and substantial endangerment to the health or welfare of persons, or cause interference with POTW, the manager or in his absence the person then in charge of the treatment works shall immediately notify the board of mayor and aldermen of the nature of the emergency. The manager shall also attempt to notify the industrial user or other person causing the emergency and request their assistance in abating same. Following consultation with the board of mayor and aldermen or such members of the board of mayor and aldermen as may be available, the manager shall temporarily terminate the sewer service of such user or users as are necessary to abate the condition when such action appears reasonably necessary. Such service shall be restored by the manager as soon as the emergency situation has been abated or corrected. (Ord. #97-016, Jan. 1998)

18-435. Termination of water service for non-compliance with certain sections. As an additional method of enforcing the provisions of this chapter, the city shall have the right to discontinue water service to any water customer of the city who is in violation; provided, however, that before discontinuance of water service, the city shall give such person ten (10) days notice that water service will be discontinued; and provided further, that water service shall be resumed upon a satisfactory showing being made to the city that arrangements have been made for compliance with the provisions of such sections. (Ord. #97-016, Jan. 1998)

18-436. Public nuisances. Discharges of wastewater in any manner in violation of this chapter or of any order issued by the manager as authorized by this chapter, is hereby declared a public nuisance and shall be corrected or abated as directed by the manager. Any person creating a public nuisance shall

be subject to the provisions of the city codes or ordinances governing such nuisance. (Ord. #97-016, Jan. 1998)

18-437. Correction of violation and collection of costs. In order to enforce the provisions of this chapter, the manager shall correct any violation hereof. The cost of such correction shall be added to any sewer service charge payable by the person violating the chapter or the owner or tenant of the property upon which the violation occurred, and the city shall have such remedies for the collection of such costs as it has for the collection of sewer service charges. (Ord. #97-016, Jan. 1998)

18-438. Damage to facilities. When a discharge of wastes causes an obstruction damage, or any other physical or operational impairment to POTW, the manager shall assess a charge against the user for the work required to clean or repair the facility and add such charge to the user's sewer service charge. (Ord. #97-016, Jan. 1998)

18-439. Civil liabilities. Any person or user who violates any provision of this chapter, requirements, or conditions set forth in permit duly issued, or who discharges wastewater which causes pollution or violates any cease and desist order, prohibition, effluent, limitation, national standard or performance, pretreatment, or toxicity standard, shall be liable civilly.

The city may sue for such damage in any court of competent jurisdiction. In determining the damages, the court shall take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs, and the correcting action, if any. (Ord. #97-016, Jan. 1998)

18-440. Annual publication of significant violators. A list of significant violations of these regulations during the previous 12 months shall be published annually by the authority in the Bristol Herald Courier. Such publication may also summarize any enforcement action taken against such entity listed during the same 12-month period. For the purpose of this provision, significant violations shall be those that meet one or more of the following criteria:

(1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent or more of all of the measurements taken during a six month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;

(2) Technical review criteria (TRC) violations, defined here as those in which thirty-three percent or more of all of the measurements taken during a six-month period equal or exceed the product of the daily average maximum limit, or the average limit times the applicable TRC (TRC=1.4 or 40% over the

limit, for BOD, TSS, fats, oil and grease; and 1.2, or 20% over the limit, for all other pollutants except pH);

(3) Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the control authority believes has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);

(4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment and has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge;

(5) Violation, by ninety days or more after the schedule date, of a compliance schedule milestone contained in a local control mechanism or enforcement order, for starting construction, completing construction, or attaining final compliance;

(6) Failure to provide required reports within thirty days of the due date; such reports include baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(7) Failure to accurately report noncompliance;

(8) Violations which remain uncorrected 45 days after notification of non-compliance;

(9) Violations that are part of a pattern of noncompliance over a 12-month period; or

(10) Any other violation or group of violations which the control authority considers to be significant. (Ord. #97-016, Jan. 1998)

18-441. <u>Civil penalties</u>. Any user who is found to have violated an order of the manager or who failed to comply with any provision of this chapter, and the order, rules, regulations and permits issued hereunder, may be fined not less than one hundred and 00/100 dollars ($100.00) nor more than ten thousand and 00/100 dollars $10,000.00) for each offense. Each day or part of a day during which a violation shall occur or continue shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the Town of Bluff City may recover reasonable attorney's fees, court costs, court reporters' fees and other expenses of litigation by appropriate suit at law against the person found to have violated this chapter or the orders, rules, regulations, and permits issued hereunder.

Industrial users desiring to dispute such penalties may secure a review of such assessments by filing with the manager a written petition setting forth the grounds and reasons for his objections and asking for a hearing in the matter involved before the Bluff City Board of Mayor and Aldermen, if a petition for review of the assessment is not filled within thirty (30) days after the date the assessment is served, the violator shall be deemed to have consented to the

assessment and it shall become final. Upon receipt of a written petition form the alleged violator pursuant to this section, the manager shall give the petitioner thirty (30) days written notice of the time and place of the hearing, but in no case shall such hearing be held more than sixty (60) days from the receipt of the written petition, unless the manager and the petitioner agree to a postponement. (Ord. #97-016, Jan. 1998)

18-442. Falsifying information. Any person who knowingly makes any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this chapter, or wastewater discharge permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter, shall, be guilty of a misdemeanor. (Ord. #97-016, Jan. 1998)

18-443. Purpose. It is the purpose of this chapter to provide for the equitable recovery of costs from users of the Town of Bluff City's wastewater treatment system, including costs of operation, maintenance, administration, bond service costs, capital improvements, and depreciation. (Ord. #97-016, Jan. 1998)

18-444. Types of charges and fees. The charges and fees may be established by appropriate ordinance or resolution of board of mayor and aldermen and may include, but not be limited to, the following types:

(1) Fees for application for discharge;
(2) Tapping fee;
(3) Sewer use charges;
(4) Surcharge fees;
(5) Industrial wastewater discharge permit fees;
(6) Fees for industrial discharge monitoring;
(7) Holding tank waste disposal permit fees; and
(8) Other fees as the Town of Bluff City may deem necessary to carry out the requirements of this chapter. (Ord. #97-016, Jan. 1998)

18-445. Fees for applications for discharge. A fee may be charged when a user or prospective user makes application for discharge as required by sections 18-413 and 18-414 of this chapter. (Ord. #97-016, Jan. 1998)

18-446. Inspection fee and tapping fee. A tapping fee for a building sewer installation as required by section 18-413 shall be paid to the Town of Bluff City at the time the application is filed, pursuant to Ordinances of the Town of Bluff City, Tennessee, 91-032, 96-002, 96-010 and 96-011. (Ord. #97-016, Jan. 1998)

18-447. Sewer user charges. A sewer user fee shall be charges pursuant to the Town of Bluff City, Tennessee Ordinance 96-011. (Ord. #97-016, Jan. 1998)

18-448. Surcharge fees. If it is determined by the Town of Bluff City that the discharge of other loading parameters or wastewater substances are creating excessive operation and maintenance costs within the wastewater system, whether collection or treatment, then the monetary effect of such a parameter or parameters shall be borne by the discharge of such parameters in proportion to the amount of discharge. (Ord. #97-016, Jan. 1998)

18-449. Industrial wastewater discharge permit fees. A fee may be charged for the issuance of an industrial wastewater discharge permit in accordance with section 18-414 of this chapter. (Ord. #97-016, Jan. 1998)

18-450. Fees for industrial discharge monitoring. Fees may be collected from industrial users having pretreatment or other discharge requirements to compensate the Town of Bluff City for the necessary compliance monitoring and other administrative duties of the pretreatment program. (Ord. #97-016, Jan. 1998)

18-451. Holding tank waste disposal permit fees. The fee may be charged for the issuance of a holding tank waste disposal permit in accordance with section 18-410 of this chapter. (Ord. #97-016, Jan. 1998)

18-452. Payment by tenants or occupants other than owners. Tenants or occupants of premises, if other than the owners, shall pay the charges for sewer services, it not being intended hereby to require payment of sewer service charges by owners not actually occupying their own property. (Ord. #97-016, Jan. 1998)

18-453. Penalty to be charged on delinquent bills; discontinuance of services for delinquency. A ten percent (10%) penalty will be charged on bills for sewer services which are paid after the 14th day after the billing date for such service. If the bill is not paid within twenty (20) days after the billing date, the water and sewer services shall be discontinued. (Ord. #97-016, Jan. 1998)

18-454. Validity. (1) All ordinances or parts of ordinances in conflict herein are hereby repealed.

(2) The validity of any section, clause, sentence, or provision of this chapter shall not affect the validity of any other part of this chapter which can be given effect without such invalid part or parts.

(3) This chapter and its provisions shall be valid for all service areas, regions and sewage works under the jurisdiction of the Town of Bluff City, Tennessee. (Ord. #97-016, Jan. 1998)

18-455. <u>Property owners to connect</u>. When public sewer becomes available under the Bluff City Sewer Use Ordinance 97-016 as amended each property owner shall make a connection to the sanitary sewer and cease to use any other means of disposal of sewage and/or sewage waste pursuant to the sewer use ordinance. The town can refuse water service to such property owner, tenant or occupant until there has been compliance with the sewer use ordinance and may discontinue water service to an owner, tenant or occupant failing to comply within thirty (30) days after notice to comply. (Ord. #98-015, Dec. 1998)

TITLE 19

ELECTRICITY AND GAS

CHAPTER

CHAPTER 1

GAS[1]

SECTION

19-101. To be furnished under franchise. Electricity shall be furnished for the municipality and its inhabitants under such franchise as the governing body shall grant.[2] The rights, powers, duties, and obligations of the municipality, its inhabitants, and the grantee of the franchise shall be clearly stated in the written franchise agreement which shall be binding on all parties concerned. (1980 Code, § 13-301)

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[1]Municipal code reference
Electrical code: title 12.

[2]The agreements are of record in the office of the city recorder.

TITLE 20

MISCELLANEOUS

CHAPTER 1

REGULATIONS FOR USE OF PAVILION

20-101. Regulations. (1) Upon application to use the Bluff City pavilion the applicant must make a twenty dollar ($20.00) deposit with the Town of Bluff City prior to use and/or issuing keys for the rest rooms.

(2) Upon return of the rest room keys, the town shall inspect the rest rooms at the pavilion and if they are in the same condition as they were upon issuance of keys to the applicant the twenty dollar ($20.00) deposit shall be refunded.

(3) If the rest rooms are not in the same condition as when the keys were issued, the twenty dollar ($20.00) deposit shall not be refunded and the applicant shall be held liable for any damages thereto. (Ord. #98-010, Aug. 1998)

CHAPTER 2

GARAGE SALES

SECTION

20-201. Intent and purpose. The Board of Mayor and Aldermen of the Town of Bluff City find and declare that:

(1) The intrusion of nonregulated garage sales is causing annoyance to the citizens of the Town of Bluff City and congestion of the streets in areas of the Town of Bluff City.

(2) The provisions contained in this chapter are intended to prohibit the infringement of any businesses in any established residential areas by regulating the term and frequency of garage sales, so as not to disturb or disrupt the residential environment of the area;

(3) The provisions of this chapter are designed to control the operation of garage sales conducted in non-residential areas also; and

(4) The provisions and prohibitions hereinafter contained are enacted not to prevent garage sales, but to regulate garage sales for the safety and welfare of the citizens of the Town of Bluff City, Tennessee. (as added by Ord. #2004-012, Nov. 2004)

20-202. Definitions. For the purpose of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not consistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words

in the singular number the plural number. The word "shall" is always mandatory and not merely directory:

(1) "Garage sales" shall mean and include all general sales, open to the public, conducted from or on any premises and any residential or non-residential zone, as defined by the zoning ordinance, for the purpose of disposing of personal property including, but not limited to, all sales entitled "garage," "lawn," "yard," "attic," "porch," "room," "backyard," "patio," or "rummage" sale; and

(2) "Personal property" shall mean property which is owned, utilized and maintained by an individual or members of his or her residence and acquired in the normal course of living in or maintaining a residence. It does not include merchandise which was purchases for resale or obtained on consignment. (as added by Ord. #2004-012, Nov. 2004)

20-203. Property permitted to be sold. It shall be unlawful for any person to sell or offer for sale, under authority granted by this chapter, property other than personal property. (as added by Ord. #2004-012, Nov. 2004)

20-204. Permit required. No garage sale shall be conducted unless and until the individuals desiring to conduct such sale shall obtain a permit therefore from the Town of Bluff City. Members of more than one residence may join in obtaining a permit for a garage sale to be conducted at the residence of one of them. Permits may be obtained for any non-residential location. (as added by Ord. #2004-012, Nov. 2004)

20-205. Written statement required. Prior to issuance of any garage sale permit, the individuals conducting such sales shall file a written statement with the city recorder, setting forth the following information:

(1) Full name and address of applicant;

(2) The location at which the proposed garage sale is to be held;

(3) The date, or dates upon which the sale shall be held. The date, or dates of any other garage sales within the current calendar year.

(4) An affirmative statement that the property to be sold has been owned by the applicant as his own personal property for a minimum of sixty (60) days preceding the filing of the written statement and was neither acquired nor consigned for the purpose of resale; and

(5) An affirmative statement that the applicant will fully comply with this and all other applicable chapters and laws. (as added by Ord. #2004-012, Nov. 2004)

20-206. Permit fee. There shall be an administrative processing fee of one dollar ($1.00) for the issuance of such permit. (as added by Ord. #2004-012, Nov. 2004)

20-207. Permit issuance-conditions. Upon the applicant complying with the terms of this chapter, the city recorder shall issue a permit. The permit shall set forth and restrict the time and location of such garage sale. No more than four (4) such permits may be issued to one non-residential location, residence and/or family household during any calendar year. If members of more than one residence join in requesting a permit, then such permit shall be considered as having been issued for each and all such residences. (as added by Ord. #2004-012, Nov. 2004)

20-208. Hours of operation. Such garage sales shall be limited in time to no more than 9:00 a.m. to 6:00 p.m. on three (3) consecutive days. (as added by Ord. #2004-012, Nov. 2004)

20-209. Display of sale property. Personal property offered for sale may be displayed within the residence, in a garage, carport, and/or in a front, side or rear yard, but only in such areas. No personal property offered for sale at a garage sale shall be displayed in any public right-of-way. A vehicle offered for sale may be displayed on a permanently constructed driveway within such front or side yard. (as added by Ord. #2004-012, Nov. 2004)

20-210. Display of permit. Any permit in possession of the holder or holders of a garage sale shall be posted on the premises in a conspicuous place so as to be seen by the public. (as added by Ord. #2004-012, Nov. 2004)

20-211. Advertising signs. (1) Signs permitted. Only the following specified signs may be displayed in relation to a pending garage sale:

(a) One sign permitted. One of not more than four square feet shall be permitted to be displayed on the property of the residence or non-residential site where the garage sale is being conducted.

(b) Directional signs. Two signs of not more than two square feet each are permitted, provided that the premises on which the garage sale is conducted is not on a major thoroughfare, and written permission to erect such signs is received from the property owners on whose property such signs are to be placed and no signs shall be placed on public rights-of-way or easements.

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

(3) Removal of signs. Signs must be removed by 8:00 p.m. on the final day of the garage sale. (as added by Ord. #2004-012, Nov. 2004)

20-212. Public nuisance. The individual to whom such permit is issued and the owner or tenant of the premises on which such sale or activity is conducted shall by jointly and severally responsible for the maintenance of good order and decorum on the premises during all hours of such sale or activity. No

such individual shall permit any loud or boisterous conduct on said premises, nor permit vehicles to impede the passage of traffic on any roads or streets in the area of such premises. All such individuals shall obey the reasonable orders of any member of the police or fire departments of the Town of Bluff City in order to maintain the public health, safety and welfare. (as added by Ord. #2004-012, Nov. 2004)

20-213. Inspection - arrest authority of inspector. A police officer may make inspections under the licensing or regulating chapter or to enforce the same, shall have the right of entry to any premises showing evidence of garage sale for the purpose of enforcement or inspection and may close the premises from such a sale or cite any individual who violates the provisions of this chapter. (as added by Ord. #2004-012, Nov. 2004)

20-214. Parking. All parking of vehicles shall be conducted in compliance with all applicable laws and ordinances. Further, the police department may enforce such temporary controls to alleviate any special hazards and/or congestion created by any garage sale. (as added by Ord. #2004-012, Nov. 2004)

20-215. Relocation and refusal of permit. (1) False information. Any permit issued under this chapter may be revoked or any application for issuance of a permit may be refused by the city recorder if the application submitted by the applicant or permit holder contains any false, fraudulent or misleading statements.

(2) Conviction of violation. If any individual is convicted of an offense under this chapter, the city recorder is instructed to cancel any existing garage sale permit held by the individual convicted and not issue such individual another garage sale permit for a period of two (2) years from the time of the conviction. (as added by Ord. #2004-012, Nov. 2004)

20-216. Persons exempted. The provisions of this chapter shall not apply to or affect the following:

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

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

(3) Any sale conducted by any merchant or mercantile or other business establishment on a regular, day to day basis from or at the place of business wherein such sale would be permitted by zoning regulations of the Town of Bluff City or under the protection of the nonconforming use section thereof or any other sale conducted by a manufacturer, dealer or vender in which sale would be conducted from property zoned premises and not otherwise prohibited by other ordinances; and

(4) Any bona fide charitable, eleemosynary, educational, cultural or governmental institution or organization when the proceeds from the sale are used directly for the institution or organizations with charitable and the goods or articles are not sold on a consignment basis. (as added by Ord. #2004-012, Nov. 2004)

20-217. Separate violations. Every article sold and every day sale is conducted in violation of this chapter shall constitute a separate offense. (as added by Ord. #2004-012, Nov. 2004)

20-218. Penalty. Any person found guilty of violating the terms of this chapter shall be fined not less than twenty five dollars ($25.00) nor more than fifty dollars ($50.00) for each offense. (as added by Ord. #2004-012, Nov. 2004)

CHAPTER 3

FALSE ALARM ORDINANCE

SECTION
20-301. False alarms regulated.

20-301. False alarms regulated. (1) Whenever an alarm is activated in the Town of Bluff City, Tennessee, thereby requiring an emergency response to the location by authority personnel, a police officer and/or fireman on the scene of the activated alarm shall determine whether the emergency response was in fact required as indicated by the alarm system or whether in some way the alarm system malfunctioned and thereby activated a false alarm.

(2) If the police officer or fireman at the scene of the activated alarm system determines the alarm to be false and no emergency exists, then such officer shall submit a report of the false alarm to the chief of police. A written notification of emergency response and determination of the response shall be mailed or delivered to the alarm user.

(3) It is hereby found and determined that more than five (5) false alarms are excessive and constitute a public nuisance. Whenever an alarm system has produced five (5) false alarms within a twelve (12) month period, the alarm user shall be guilty of a violation of this article for each subsequent false alarm, each violation of this article shall be punishable by a fine of $50.00.

(4) There shall be provided to the alarm user a ten-day grace period during the initial installation of the alarm system. The penalty provisions in this article will not apply for false alarms activated during the grace period.

(5) Any alarm business testing or servicing any alarm system shall notify the chief of police and inform him of the location and time of such testing and servicing and upon completion of the test or service. This subsection shall apply to any testing period after the initial installation period has ceased. The provisions of this section regarding false alarms will not apply to the alarm used if prior notice of such testing has been made to the chief of police. (as added by Ord. #2003-008, Jan. 2004)

APPENDIX A

S. 1994 DRUG AND ALCOHOL TEST STANDARDS

Drug	Cutoff Level Screen (ng/ml)	Cutoff Level Confirmation (ng/ml)
Amphetamine (speed)	1000.00	
Amphetamine		500.00
Methamphetamine		500.00
Cannabinoid (Marijuana	50.00	15.00
Cocaine (benzoylecgonine)	300.00	150.00
Opiate	300.00	
Codeine		300.00
Morphine		300.00
Phencyclidine (PCP)	25.00	25.00
Alcohol	.04 percent BAL	.04 percent BAL

(Note - Additional substances listed under the Tennessee Drug Control Act of 1989 may be tested at the cutoff level customarily used by the selected laboratory. Cutoff levels are subject to change as DOT rules change.)

CONSENT AND ACKNOWLEDGMENT FORM

City/Town of Bluff City

DRUG/ALCOHOL TESTING PROCEDURES

CONSENT AND ACKNOWLEDGMENT FORM

As an applicant or an employee with the city/town of Bluff City, I hereby consent to and acknowledge that I am scheduled to undergo drug and/or alcohol testing. The test for alcohol will be a breath analysis test. The drug test will involve an analysis of a urine sample, which I will provide at a designated site. The purpose the test will be to test for the presence of the following substances: amphetamines, marijuana, cocaine, opiates, PCP, alcohol, and/or any additional drugs listed in the Tennessee Drug Control Act. I authorize qualified personnel to take and have analyzed appropriate specimens to determine if drugs and/or alcohol are present in my system. I acknowledge that the drug/alcohol screen test results will be made available to the testing laboratory, medical review officer (MRO), the City Manager or his/her designee. As an applicant, I am aware that a confirmed and verified positive drug/alcohol test result will rescind my conditional offer of employment. As an employee, I am aware that a confirmed and verified positive test result may lead to disciplinary action up to and including immediate dismissal. I will present a copy of this form to the collection site when I report for my scheduled drug/alcohol test. I also understand that failure to provide adequate breath for testing without a valid medical explanation, failure to provide adequate urine for controlled substances testing without a valid medical explanation, and engaging in conduct that clearly obstructs the testing process are the same as refusing to test.

Name of Applicant or Employee: _____

Department Name: _____

Social Security Number: _____

_____ _____

(Signature of Applicant or Employee) Date

_____ _____

(Signature of Witness) Date

ANTI-DRUG AND ALCOHOL POLICY TESTING REQUIREMENTS

TYPE OF TEST	EMPLOYEE GROUP			
	CDL REQUIRED	PIPELINE WORKER	SAFETY SENSITIVE	OTHER GENERAL
DRUG TESTING:				
1. Pre-Employment	Required	Required	Optional	No
2. Transfer*	Required	Required	Optional	No
3. Post-Accident/Incident	Required	Required	Optional	Optional
4. Reasonable Suspicion	Required	Required	Optional	Optional
5. Random	Required	Required	Optional	No
6. Return-to-Duty/ Follow-up	Required	Required	Optional	Optional
ALCOHOL TESTING:				
1. Post-Accident/Incident	Required	Optional	Optional	Optional
2. Reasonable suspicion	Required	Optional	Optional	Optional
3. Random	Required	No	No	No
4. Return-to-Duty/ Follow-up	Required	Optional	Optional	Optional

* Applies to existing employees transferring into a new position within the respective employee group.

REQUIREMENTS FOR ALCOHOL AND DRUG TESTING POLICY STATEMENTS

Local governments are required to develop a policy statement for the alcohol and drug testing program. This policy statement must be distributed to every safety-sensitive employee prior to the start of the testing program, to representatives of employee organizations, and to new employees as they are hired or transferred into safety-sensitive positions. The FHWA rules require that the following information be included in the policy:

1) The name of the person designated by the employer to answer questions about the alcohol and drug testing program;

2) The employees who are covered by the DOT and FHWA rules and consequently the local government's alcohol and drug testing policy;

3) Information about the safety-sensitive functions performed by the covered employees;

4) Information concerning safety-sensitive employee conduct that is prohibited under the DOT/FHWA rules;

5) The circumstances under which a driver will be tested for alcohol and drugs;

6) The procedures that will be followed to:

a) Test for the presence of alcohol and drugs;

b) Protect the covered employee and the integrity of the testing processes;

c) Safeguard the validity of the test results;

d) Ensure that those results are attributed to the correct employee;

7) The requirement that a covered employee submit to alcohol and drug tests administered in accordance with the DOT/FHWA rules;

8) An explanation of what constitutes a refusal to submit to an alcohol

or drug test administered in accordance with the DOT/FHWA rules;

9) The consequences resulting from positive alcohol and/or drug tests;

10) Information concerning-

a) The effects of alcohol and drug use on an individual's health, work, and personal life;

b) Signs and symptoms of an alcohol or drug problem (the driver's or a coworkers's);

c) Available methods of intervening when an alcohol or drug problem is suspected, including confrontation, referral to any employee assistance program, and/or referral to management.

The policy may also include information on additional local government policies regarding the use or possession of alcohol or drugs that the local government has implemented under its own authority. For example, local governments may want to explain whether the local government will pay for all alcohol and drug tests, if the employees will pay for all the tests, or if the costs will be shared. Although these rules preempt any inconsistent state or local laws, state or local governments may have adopted policies that require funding of alcohol and drug tests and such policies would not be considered as inconsistent with these rules. A thorough, legal review of all state and local laws regarding alcohol and drug testing should be conducted before implementation of these rules begins.

The local government must ensure that each covered employee is required to sign a statement that he/she has received a copy of the policy described above. The local government keeps the original of the signed statement and may also provide a copy to the employee.

ORDINANCE NO. 98-009

AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE TOWN OF BLUFF CITY TENNESSEE.

WHEREAS some of the ordinances of the Town of Bluff City are obsolete, and

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

WHEREAS the Board of Mayor and Aldermen of the Town of Bluff City, 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 "Bluff City Municipal Code," now, therefore:

BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE TOWN OF BLUFF CITY, TENNESSEE, THAT:

Section 1. Ordinances codified. The ordinances of the town of a general, continuing, and permanent application or of a penal nature, as codified and revised in the following "titles," namely "titles" 1 to 20, both inclusive, are ordained and adopted as the "Bluff City Municipal Code," hereinafter referred to as the "municipal code."

Section 2. Ordinances repealed. All ordinances of a general, continuing, and permanent application or of a penal nature not contained in the municipal code are hereby repealed from and after the effective date of said code, except as hereinafter provided in Section 3 below.

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

portion of any ordinance not in conflict with such code which regulates speed, direction of travel, passing, stopping, yielding, standing, or parking on any specifically named public street or way; any right or franchise granted by the town; any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments therefor; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; nor shall such repeal affect any ordinance annexing territory to the town. Any Ordinance passed after March 6, 1997 is not repealed by this Ordinance.

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

Section 5. Penalty clause. Unless otherwise specified in a title, chapter or section of the municipal code, including the codes and ordinances adopted by reference, whenever in the municipal code any act is prohibited or is made or declared to be a civil offense, or whenever in the municipal code the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision of the municipal code shall be punished by a civil penalty of not more than five hundred dollars ($500.00) and costs for each separate violation; provided, however, that the imposition of a civil penalty under the provisions of this municipal code shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the municipal code or other applicable law. In any place in the municipal code the term "it shall be a misdemeanor" or "it shall be an offense" or "it shall be unlawful" or similar terms appears in the context of a penalty provision of this municipal code, it shall mean "it shall be a civil offense." Anytime the word "fine" or similar term appears in the context of a penalty provision of this municipal code, it shall mean "a civil penalty."[1]

When a civil penalty is imposed on any person for violating any provision of the municipal code and such person defaults on payment of such penalty, he may be required to perform hard labor, within or without the

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[1]State law reference

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

workhouse, to the extent that his physical condition shall permit, until such civil penalty is discharged by payment, or until such person, being credited with such sum as may be prescribed for each day's hard labor, has fully discharged said penalty.

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

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

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

Section 8. Construction of conflicting provisions. Where any provision of the municipal code is in conflict with any other provision in said code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

Section 9. Code available for public use. A copy of the municipal code shall be kept available in the recorder's office for public use and inspection at all reasonable times.

SECTION 10. Date of effect. This ordinance shall take effect from and after its final passage, the public welfare requiring it, and the municipal code, including all the code and ordinances therein adopted by reference, shall be effective on and after that date.

Robert M. Thomas, Mayor

Attested: Judy A Dulaney
Judy Dulaney, City Recorder

Approved as to form: J. Paul Frye
J. Paul Frye, City Attorney

Passed on First Reading: 7/2/98
Passed on Second Reading: 7/16/98
Public Hearing: 7/16/98