

**THE  
COWAN  
MUNICIPAL  
CODE**

Prepared by the

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

in cooperation with the

**TENNESSEE MUNICIPAL LEAGUE**

June 2005

Change 1, December 14, 2010

**CITY OF COWAN, TENNESSEE**

**MAYOR**

Joe Ed Williams

**VICE MAYOR**

Joyce Brown

**COUNCILMEMBERS**

Ransom Green

Josephine Holman

Mark Ledbetter

Lee Roy Wilkinson

**RECORDER**

Becky Sherman

## PREFACE

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

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

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

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

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

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

When the foregoing conditions are met MTAS will reproduce replacement pages for the code to reflect the amendments and additions made by such ordinances. This service will be performed at least annually and more often if

justified by the volume of amendments. Replacement pages will be supplied with detailed instructions for utilizing them so as again to make the code complete and up to date.

The able assistance of Linda Dean, Administrative Specialist, is gratefully acknowledged.

Steve Lobertini  
Codification Consultant

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

. . . Ordinances and resolutions shall be in written form before being introduced. The enacting clause of ordinances shall be "Be It Ordained by the Council of the City of Cowan:". No action of Council shall be valid or binding unless approved by the affirmative vote of at least three members of Council. Any ordinance which repeals or amends existing ordinances shall set forth at length the Sections or Sub-sections repealed or as amended. Every ordinance except an emergency ordinance must be approved on three readings not less than one week apart and shall become effective when adopted upon third and final reading unless its terms provide a later effective date. Every ordinance, except Codes adopted by reference as provided in Sub-section (c) below, shall be read in full on the first reading; the second and third readings may be by title only except that any amended provisions shall be read in full. Each resolution shall be read in full one time and shall become effective when adopted unless its terms provide otherwise. To meet a public emergency affecting life, health or property, an emergency ordinance may be adopted on two readings on separate days and become effective immediately, by the affirmative votes of four members of Council, if the ordinance contains a full statement of the facts creating the emergency, but any emergency ordinance shall be effective for only 90 days. Appropriations, revenues, franchises, contracts, levy of taxes, borrowing money, or special privileges shall not be passed as emergency ordinances. . . . (Charter § 2.09)

**TITLE 1**

**GENERAL ADMINISTRATION<sup>1</sup>**

**CHAPTER**

1. CITY COUNCIL.
2. MAYOR.
3. CITY RECORDER.
4. CODE OF ETHICS.

**CHAPTER 1**

**CITY COUNCIL**

**SECTION**

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

**1-101. Time and place of regular meetings.** The city council shall hold regular monthly meetings at 7:00 P.M. on the second Tuesday of each month at the Cowan City Hall. If the regular meeting falls on a holiday, or on a day observed as a holiday, the regular meeting shall be held at the same time and place on the next regular work day.

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

- (1) Call to order by the mayor.
- (2) Roll call by the recorder.
- (3) Reading of minutes of the previous meeting by the recorder, and approval or correction.
- (4) Grievances from citizens.
- (5) Communications from the mayor.

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<sup>1</sup>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 and plumbing inspectors: title 12.

Fire department: title 7.

Utilities: titles 18 and 19.

Wastewater treatment: title 18.

Zoning: title 14.

- (6) Reports from committees, members of the board of mayor and aldermen, and other officers.
- (7) Old business.
- (8) New business.
- (9) Adjournment.

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

**CHAPTER 2****MAYOR<sup>1</sup>****SECTION**

1-201. Duties of mayor.

1-202. Executes city's contracts.

**1-201. Duties of mayor.** The mayor shall perform such duties as provided by the charter and any ordinances duly enacted by the city council consistent with the charter.

**1-202. Executes city's contracts.** The mayor shall execute all contracts as authorized by the city council.

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<sup>1</sup>Charter references

Duties: § 3.02.

Mayor as presiding officer: § 2.04.



**CHAPTER 3****CITY RECORDER**<sup>1</sup>**SECTION**

1-301. To be bonded.

1-302. To keep minutes, etc.

1-303. To perform general administrative duties, etc.

**1-301. To be bonded.** The city recorder shall be bonded in such sum as may be fixed by, and with such surety as may be acceptable to, the city council.

**1-302. To keep minutes, etc.** The city recorder shall keep the minutes of all meetings of the city council and shall preserve the original copy of all ordinances in a separate ordinance book.

**1-303. To perform general administrative duties, etc.** The city recorder shall perform all administrative duties for the city council and for the city which are not assigned by the charter, this code, or the city council to another corporate officer. The city recorder shall also have custody of and be responsible for maintaining all corporate bonds, records, and papers.

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<sup>1</sup>Charter reference  
City recorder: § 3.05.

## CHAPTER 4

### CODE OF ETHICS

#### SECTION

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

**1-401. Applicability.** This chapter constitutes the code of ethics for officials and employees of the City of Cowan. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the city. The words "municipal" and "municipality" include these separate entities. (as added by Ord. #06-09-01, Dec. 2006)

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

(a) Any financial, ownership, or employment interest in the subject of a vote by a city 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, parent(s), stepparent(s), grandparent(s), sibling(s), child(ren), or stepchild(ren).

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

(3) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter. (as added by Ord. #06-09-01, Dec. 2006)

**1-403. Disclosure of personal interest by official with vote.** An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself from voting on the measure. (as added by Ord. #06-09-01, Dec. 2006)

**1-404. Disclosure of personal interest in nonvoting matters.** An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself from the exercise of discretion in the matter. (as added by Ord. #06-09-01, Dec. 2006)

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

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

(2) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing city business. (as added by Ord. #06-09-01, Dec. 2006)

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

(2) An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity. (as added by Ord. #06-09-01, Dec. 2006)

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

(2) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease that is determined by the governing body to be in the best interests of the city. (as added by Ord. #06-09-01, Dec. 2006)

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

(2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the city. (as added by Ord. #06-09-01, Dec. 2006)

**1-409. Outside employment.** An official or employee may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the city position or conflicts with any provision of the city's charter or any ordinance or policy. (as added by Ord. #06-09-01, Dec. 2006)

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

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

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

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

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

(4) When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation or a civil service policy, rule or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than a violation of this code of ethics. (as added by Ord. #06-09-01, Dec. 2006)

**1-411. Violations.** An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the city's charter or other applicable law and in addition is subject to censure by the city council. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (as added by Ord. #06-09-01, Dec. 2006)

TITLE 2

BOARDS AND COMMISSIONS, ETC.

[RESERVED FOR FUTURE USE]

## TITLE 3

MUNICIPAL COURT

## CHAPTER

1. CITY JUDGE.
2. COURT ADMINISTRATION.
3. WARRANTS, SUMMONSES AND SUBPOENAS.

## CHAPTER 1

CITY JUDGE<sup>1</sup>

## SECTION

- 3-101. City judge.
- 3-102. Judge pro tem.
- 3-103. Jurisdiction.

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

3-102. Judge pro tem. During the absence of the city judge from his duties for any reason or at any time the office of the city judge is vacant, the board of mayor and aldermen may appoint a city judge pro tem to serve until the city judge returns to his duties or the office of city judge is no longer vacant. The city judge pro tem shall have all the qualifications required, and powers, of the city judge.

3-103. Jurisdiction. The city judge shall have the authority to try persons charged with the violation of municipal ordinances, and to punish persons convicted of such violations by levying a civil penalty under the general penalty provision of this code.

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<sup>1</sup>Charter reference  
City judge: § 3.05.

## CHAPTER 2

COURT ADMINISTRATION

## SECTION

3-201. Maintenance of docket.

3-202. Imposition of penalties and costs.

3-203. Disposition and report of penalties and costs.

3-204. Disturbance of proceedings.

3-201. Maintenance of docket. The city judge shall keep a complete docket of all matters coming before him in his judicial capacity. The docket shall include for each defendant such information as his name; warrant and/or summons numbers; alleged offense; disposition; penalties and costs imposed and whether collected; whether committed to workhouse; and all other information that may be relevant.

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

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

3-204. 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.



## CHAPTER 3

WARRANTS, SUMMONSES AND SUBPOENAS

## SECTION

3-301. Issuance of arrest warrants.

3-302. Issuance of summonses.

3-303. Issuance of subpoenas.

3-301. Issuance of arrest warrants.<sup>1</sup> The city judge shall have the power to issue warrants for the arrest of persons charged with violating municipal ordinances.

3-302. 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 municipal code or 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.

3-303. 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.

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<sup>1</sup>State law reference

For authority to issue warrants, see Tennessee Code Annotated, title 40, chapter 6.

## TITLE 4

### MUNICIPAL PERSONNEL

#### CHAPTER

1. PURPOSE AND OBJECTIVES.
2. EMPLOYMENT.
3. BENEFITS.
4. MISCELLANEOUS.
5. SEPARATION AND DISCIPLINE.
6. SPECIAL NOTE.
7. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.
8. INFECTIOUS DISEASE CONTROL POLICY.

#### CHAPTER 1

### PURPOSE AND OBJECTIVES

#### SECTION

- 4-101. Purpose and objectives.
- 4-102. Coverage.
- 4-103. Administration and organization.

**4-101. Purpose and objectives.** The purpose of these policies is to establish a high degree of understanding, cooperation, efficiency, and unity among city employees which comes from a systematic application of good procedure in personnel administration, and to provide uniform policies for all employees, with all the benefits such a program insures without regard to race, gender, age, national origin, creed, and disability.

The fundamental objectives of good personnel administration to be achieved by these policies are:

- (1) To promote and increase efficiency and economy among employees of the City of Cowan;
- (2) To provide fair and equal opportunity to all qualified citizens on the basis of demonstrated merit and fitness as ascertained through fair and practical methods of selection;
- (3) To develop a program of recruitment, advancement and tenure which will make employment with the city attractive as a career and encourage each employee to render the best service;
- (4) To establish and maintain a uniform plan of evaluation and compensation;
- (5) To establish and promote a high morale among the employees by providing good working relationships, a uniform personnel policy, opportunity for advancement, and consideration for employee needs and desires.

**4-102. Coverage.** These rules and regulations shall cover all employees in the city's service, unless specifically exempt by this chapter, the city charter and/or ordinances of the city, without regard to race, religion, national origin, political affiliation, gender, age, or disability.

All offices and positions of the city government are divided into the classified service and the exempt service. The classified service shall include all regular full-time and regular part-time positions in the city's service unless specifically placed in the exempt service. All offices and positions of the city government placed in the exempt service are as follows:

- (1) All elected officials;
- (2) Members of appointed boards and commissions;
- (3) Consultants, advisers, and legal counsel rendering temporary professional service;
- (4) City attorney;
- (5) City prosecutor;
- (6) Independent contractors;
- (7) Persons employed by the city for not more than three (3) months during a fiscal year;
- (8) Part-time employees paid by the hour or the day;
- (9) Volunteer personnel appointed without compensation;
- (10) City judge;
- (11) Officers and employees of public utilities and housing authority and all other positions specifically listed as appointed positions with the city charter.

**4-103. Administration and organization.** These rules shall be administered by the mayor under the direction of the city council and in conformity with the city charter establishing personnel rules and guidelines. In accordance with the city charter, Private Acts, 1967, Chapter 100, Section 3.01:

"That the city government shall be organized into a Department of Finance, Police Department, Fire Department, and Department of Public Works and Utilities, unless otherwise provided by ordinance. The Council shall determine by ordinance the functions and duties of all departments and offices. The Council by ordinance may establish, abolish, merge, or consolidate offices, positions of employment, departments, and agencies of the city, may provide that the same person shall fill any number of offices and positions of employment, and may transfer or change the functions and duties of offices, positions of employment, departments, and agencies of the city, subject to the following limitations: (a) the number of members and the authority of the council, as provided in this charter, shall not be changed, (b) all officers and employees of the city, except as otherwise specifically provided in this Charter, shall be appointed and removed by the Mayor, but only with approval of the Council voting upon such appointment or removal, and said employees shall be under the direction and control of

the Mayor, (c) the office of Mayor shall not be abolished, nor shall his powers, as provided in this Charter, be reduced."

## CHAPTER 2

### EMPLOYMENT<sup>1</sup>

#### SECTION

- 4-201. Employment.
- 4-202. Eligibility.
- 4-203. Medical examination.
- 4-204. Types of employees.
- 4-205. Probationary period.
- 4-206. Minimum age.
- 4-207. Salary.
- 4-208. Payday.
- 4-209. Salary deductions.
- 4-210. Reporting to work.
- 4-211. Workweek.
- 4-212. Attendance.
- 4-213. Personnel records.
- 4-214. Overtime.
- 4-215. Breaks.
- 4-216. Appointment, removal, promotion, transfer, demotion, suspension.

**4-201. Employment.** The City of Cowan shall make every effort to attract qualified applicants for various types of positions. In so doing, the appointing authority shall prepare and publish a public notice of vacancies when they occur in an officially designated newspaper, at an officially designated site in the city hall, and at such other sites as may be designated by the mayor. Notice may also be made in alternate formats (i.e., radio, audiotapes).

Further, according to Section 3.06 of the city charter, "offices and positions of employment shall be filled from time to time as council shall determine the same to be necessary."

Applications for employment are received at the mayor's office and given thorough consideration by the appropriate department head. The City of Cowan exercises a policy of fairness to every person who applies for work, and in cooperation with the supervisor involved, is responsible for the proper selection and placement of persons in various departments within the city. The mayor and department heads will make reasonable accommodations in the application process to applicants with disabilities making a request for such accommodations.

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<sup>1</sup>Charter reference

Personnel actions: 3.07.

Personnel rules: 3.08.

Applicants may be removed from consideration if:

- (1) The applicant declines an appointment when offered;
- (2) The applicant cannot be located;
- (3) The applicant moves out of the area;
- (4) The applicant is currently using narcotics;
- (5) The applicant is found to have been convicted of a felony or a misdemeanor involving moral turpitude as the term is defined by law;
- (6) The applicant has made a false statement of material fact on the application;
- (7) The application was not filed within the period specified in the announcement or was not filed on the prescribed form or in a different format as allowed as a reasonable accommodation;
- (8) The applicant does not possess the minimum qualifications as indicated by the job description for the position;
- (9) The applicant cannot perform the requirements of the job with or without reasonable accommodations.

**4-202. Eligibility.** Individuals shall be recruited from a geographic area as wide as is necessary to assure obtaining well-qualified applicants for the various types of employment positions. Recruitment, therefore, shall not be limited to residents of the City of Cowan. In cases where residents and non-residents are equally qualified for positions presently vacant, the resident shall receive first consideration in filling such vacancies.

**4-203. Medical examination.** (1) Pre-employment. Following a conditional offer of employment, each prospective employee, when required, will be given a medical examination for the essential functions for the position they have been offered and a general physical exam. The cost of the medical examination shall be borne by the city. Any prospective employee who is unable to successfully perform the essential functions tested for in the medical examination shall have their offer of employment by the city withdrawn only:

- (a) If they cannot perform the essential functions due to a disability which cannot reasonably be accommodated;
- (b) They pose a direct threat to themselves or others;
- (c) They are unable to perform the essential functions due to a temporary condition or disability not protected by the Americans with Disabilities Act.

(2) Post-employment. All employees of the city may, during the period of their employment, be required by their department head and with the approval of the mayor, to undergo periodic examinations to determine their ability to perform the essential functions of the position in which they are employed. This periodic examination shall be at no expense to the employee. Determination of physical or mental fitness will be by a physician designated by the city council.

When an employee of the city is reported by the examining physician to be physically or mentally unfit to perform work in his/her position, the employee may, within five (5) days from the date of his/her notification of such determination, indicate in writing to the city council 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 and the physician chosen by the employee, a physician shall be mutually agreed upon and designated by the examining physician and the physician chosen by the employee. 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 by the city. An employee determined to be physically or mentally unfit to continue in his/her position may be demoted in accordance with these rules or separated from city service only after it has been determined that:

- (a) They cannot perform the essential functions due to a disability that cannot reasonably be accommodated;
- (b) They pose a direct threat to themselves or others;
- (c) They are unable to perform the essential functions due to a temporary condition or disability not protected by the Americans with Disabilities Act.

**4-204. Types of employees.** (1) Regular full-time employee. A regular full-time employee is an employee who regularly works a minimum of forty (40) hours per week. A regular full-time employee is paid an hourly rate and is subject to all conditions of employment and receives all benefits. Regular full-time employees serve a six (6) month probationary period, during which time they may be dismissed without recourse.<sup>1</sup>

(2) Regular part-time employee. A regular part-time employee works part-time on a regular basis. Part-time employees are not eligible for city benefits.

(3) Temporary employee and/or part-time employee. An employee who works full-time but not exceeding ninety (90) days per term of employment and who is paid on a per day or per hour basis. Temporary employees are not subject to all the conditions of employment but shall be fully capable of performing the assigned duties but receiving no benefits except coverage under Worker's Compensation. Individuals who are classified as temporary employees and are hired to fill a regular full-time or part-time position shall begin to accrue benefits on the effective date of regular full-time or part-time appointment.

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<sup>1</sup>This subsection amended per Ord. #03-06-02, Aug. 2003, and Ord. #05-02-01, April 2005.

**4-205. Probationary period.** Each new city employee who has been appointed to a position is required to serve a probationary period of six (6) months.<sup>1</sup> Employees who receive promotions must serve a thirty (30) day probationary period in the new position, if they are to be permanent. Employees who are transferred from one department to another will be required to serve a thirty (30) day probationary period in the new department.

During the probationary period, the supervisor will provide training, assistance and close supervision to aid the new employee in becoming thoroughly familiar with the duties and responsibilities of the job. Supervisors will evaluate new employees prior to the end of the probationary period.

**4-206. Minimum age.** The Fair Labor Standards Act requires that employees of state and local governments be at least sixteen (16) years of age for most non-farm jobs and at least eighteen (18) to work in non-farm jobs declared hazardous by the Secretary of Labor. Minors fourteen (14) and fifteen (15) years of age may work outside school hours under certain conditions.

**4-207. Salary.** According to the city charter, Section 3.06, "Salaries, wages, and remuneration for all positions shall be in accordance with motion duly made and adopted by affirmative vote of at least four councilmen. In determining salaries, wages, and remuneration, due consideration shall be given to duties, responsibilities, technical knowledge and skill required to satisfactorily perform the work, and the availability of persons having the qualifications desired."

New employees still in their six (6) month probationary period shall receive a pay increase of twenty-five cents (\$.25) per hour after three (3) months and an additional twenty-five cents (\$.25) per hour increase upon completion of the six (6) month probationary period.<sup>2</sup>

**4-208. Payday.** Employees are paid biweekly on the Monday following the end of the pay period. When payroll is scheduled to be paid on a Monday which is a legal holiday for employees, payroll shall be paid on the Friday preceding the holiday. If an employee is absent from work on payday, that employee should make arrangements with the city clerk concerning their check. If an employee loses a paycheck or the paycheck is incorrect, that employee should notify the city clerk immediately. (as amended by Ord. #07-01-01, March 2007)

**4-209. Salary deductions.** The following deductions will be made from salaries:

(1) Tennessee Consolidated Retirement--5% of gross pay after 3 months employment;

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<sup>1</sup>This sentence amended per Ord. #03-06-03, Aug. 2003, and Ord. #05-02-01, April 2005.

<sup>2</sup>This paragraph amended per Ord. #03-06-03, Aug. 2003, and Ord. #05-02-01, April 2005.



- (2) Federal Withholding Tax;
- (3) Voluntary deductions authorized by the employee:
  - (a) Group insurance;
  - (b) Uniforms;
  - (c) Savings;
  - (d) Christmas club.

**4-210. Reporting to work.** After an applicant has been chosen to fill a job vacancy by the department head and has been approved by the city council, the new employee shall be required to complete the following documents and forms before beginning work.

- (1) W-4 form;
- (2) Signed acknowledgment form from employee personnel policies and procedures manual;
- (3) Immigration Control and Reform Act (I-9) form;
- (4) Provide copy of educational certification, professional license or certificate required per job description;
- (5) Emergency telephone numbers;
- (6) Copy of driver's license, if position requires driving a city vehicle;
- (7) List of dependents as required by COBRA.

**4-211. Workweek.** The working time per week shall be forty (40) hours with special provisions made in departments that require additional hours to meet existing conditions or emergency situations.

Pursuant to the Fair Labor Standards Act, a workweek is a regular recurring period of one hundred sixty eight (168) hours consisting of seven (7) consecutive twenty-four (24) hour periods; the number of days that shall constitute a work week for regular employment shall be five (5) per week. Schedules will vary in departments as necessary for the smooth operation of the city.

Time sheets must be turned in at city hall by 8:00 A.M. on Monday morning following the end of the pay period.

**4-212. Attendance.** Punctual and regular attendance is necessary for the efficient operation of the city. Employees unavoidably late or absent from work due to illness or other cause must notify their immediate supervisor within a time frame established for each department (unless unusual circumstances prevent the employee from making proper notification) explaining the reason for the absence and, if possible, an anticipated time and/or date of return to work. Failure to notify one's supervisor of absences may result in disciplinary action.

**4-213. Personnel records.** It is the responsibility of each employee to keep personal information in his/her personnel file up-to-date by notifying the office staff of any information changes, such as name, address, telephone

number, beneficiary, training or course work completed. Employees should also provide copies of diplomas or certificates received.

The city shall not be held liable when incorrect withholding, wrong beneficiaries, or loss of employee benefits results from the failure of an employee to keep personnel records current.

**4-214. Overtime.** Employees may be required to work more than forty (40) hours per week. Employees receive payment for overtime at the rate of one and one-half (1 ½) times their regular hourly rate for hours worked in excess of forty (40) hours per week.

Exception: Police department employees are paid at the rate of one and one-half (1 ½) times their regular hourly rate for hours worked in excess of one hundred seventy one (171) hours in a four (4) (work) week time period.

**4-215. Breaks.** At the decision of the appointed supervisor, employees will be allowed break periods of fifteen (15) minutes in mid-morning and fifteen (15) minutes in mid-afternoon. Abuse of these "breaks" by habitually taking too much time could mean curtailment of these privileges. The "break periods" should be arranged in such a way that someone will be on duty at all times.

**4-216. Appointment, removal, promotion, transfer, demotion, suspension.** Pursuant to the city charter, Section 3.01, "All officers and employees of the city, except as otherwise specifically provided in this charter, shall be appointed and removed by the mayor but only with the approval of a majority of the council voting on such appointment or removal, and said employees shall be under the direction and control of the mayor."

Further, Section 3.07 of the charter states that "appointment and promotion of employees of the city shall be on a basis of merit, considering technical knowledge required to perform satisfactorily the work, experience in the particular or similar line of work, and administrative or supervisory qualifications. Unless otherwise provided by this charter, the mayor shall, with the approval of a majority of the council, make appointments, promotions, transfers, demotions, suspensions, and removal of employees."

A promotion is an assignment of an employee from one position to another which has a higher maximum rate of pay, rank and responsibility. Vacancies in positions above the lowest rank in any category shall be filled as far as practical by the promotion of employees. Promotions in every case must involve a definite increase in duties and responsibilities and shall not be made merely for the purpose of effecting an increase in compensation.

The transfer of an employee from one position to another without significant change in level of responsibility may be effective:

- (1) When an employee meets the qualification requirements for the new position;
- (2) If it is in the best interest of the city;

(3) If it meets the personal needs of the employee as consistent with the other requirements of this rule;

(4) If it is approved by the mayor and a majority of the city council;

(5) As a reasonable accommodation when an employee is unable, due to disability, to continue to perform the essential functions of the job.

An employee who transfers or is demoted or promoted from one city department to another will retain and carry forward all benefits earned or accrued, or both, as of the date of transfer. As a general rule, lateral transfers require no increase in compensation.

A demotion is an assignment of an employee from one position to another that has a lower maximum rate of pay, rank and responsibility.

According to the Charter of the City of Cowan, an employee may be suspended by the mayor "without approval of the council, for reasonable cause. Upon suspension of an employee by the mayor, he shall call a meeting of the council within 10 days of such suspension and present the matter of the suspension to the council. The council shall make such investigation of the suspension as it may choose, and then by affirmative vote of a majority of the council, revoke the suspension and reinstate the employee, set a definite period of suspension, or dismiss the employee. The council shall also by a majority vote decide whether or not an employee shall receive compensation during any period of suspension. If an employee is dismissed, he shall receive only such compensation as was due him through the last day he worked for the city."

It is the policy of the City of Cowan to apply and foster a sound program of personnel management. Nothing in this chapter is to be interpreted as giving an employee any more property rights in their jobs than may already be given by the city charter. These personnel policies, rules and regulations shall be reviewed periodically and may be amended any time.

## CHAPTER 3

### BENEFITS

#### SECTION

- 4-301. Holidays.
- 4-302. Vacation.
- 4-303. Sick leave.
- 4-304. Bereavement leave.
- 4-305. Maternity leave.
- 4-306. Family and medical leave policy.
- 4-307. Military leave.
- 4-308. Jury duty.
- 4-309. Special leave.
- 4-310. Terminal leave.
- 4-311. Insurance.

**4-301. Holidays.** (1) Because of the variety of city services, all city employees may not observe holidays on the same day. If the work schedule requires a deviation from the holiday schedule, supervisors will inform employees of the change. If employees are required to work on a holiday, they will be paid double-time (i.e., 8 hours holiday pay and 8 hours regular pay).

Holidays which fall on Saturday will be observed on the previous Friday and holidays which fall on Sunday will be observed on the following Monday. Employees must be in a pay status to receive holiday pay (i.e., an employee on vacation or on sick leave will be paid holiday pay). An employee who is off and has no sick or vacation time will not be paid holiday pay.

(2) Legal holidays.

- (a) New Year's Day;
- (b) Good Friday;
- (c) Memorial Day;
- (d) Independence Day;
- (e) Labor Day;
- (f) Thanksgiving Day;
- (g) Friday after Thanksgiving Day;
- (h) Christmas Eve;
- (i) Christmas Day.

Newly hired employees receive full benefits of all holidays that fall after date of employment. Time off is allowed to vote in primary and general elections. (as amended by Ord. #07-01-01, March 2007)

**4-302. Vacation.** It is the policy of the city to promote employee efficiency, health, and morale through periodic interruption from one's duties. Accordingly, employees shall be granted five (5) working days paid leave

effective on his/her one (1) year anniversary of employment with the city. After the first year, vacation time is accrued on July 1, the beginning of the city's fiscal year.

After an employee has been employed for three (3) consecutive years, he/she shall be granted ten (10) working days paid leave. After being employed ten (10) consecutive years, he/she shall be granted fifteen (15) working days paid leave. An employee with twenty (20) consecutive years of employment shall be granted twenty (20) working days paid leave, effective upon passage of the ordinance amending this section and accruing on July 1 of each calendar year thereafter.

Vacation time may be used only at times approved in advance by the immediate supervisor. The city wants employees to take their vacation, but it must be taken at the convenience of the department.

Vacation time not taken by June 30 of the current fiscal year may not be carried over, except in cases where work requirements prevent an employee from taking all his/her vacation hours. In such a case, the mayor must approve the carryover. (as amended by Ord. #09-07-01, Sept. 2009)

**4-303. Sick leave.** Sick leave is earned at the rate of eight (8) hours per month, beginning when the probationary period is complete. Employees may accumulate sick leave to a maximum of three hundred twenty (320) hours.

(1) Absence from duty to due to personal illness or the illness of a spouse or minor child.

(2) Employee disability due to an accident.

Employees will be required to turn in to the city clerk a doctor's certificate after an absence of three working days. Accumulated sick leave is not paid at the time of termination. Disciplinary action will be taken for employees who abuse sick leave.

After an employee has exhausted his/her accrued sick leave, unpaid sick leave may be granted, at the discretion of the mayor, as a reasonable accommodation to persons with disabilities, or the employee may be terminated if unable to perform their job or another job with or without reasonable accommodation. Should the employee be able to return to work later, upon presentation of certification by a doctor, he/she shall be given preference for employment to a position for which he/she is qualified.

Employees may not borrow against future sick leave or transfer earned sick leave to another employee. An employee, upon exhausting all earned sick leave, may use earned vacation time or take leave without pay. Only the governing body, by a majority vote in a regular meeting, may make exceptions to leave policy due to unusual and/or extenuating circumstances.

An employee who retires under the city's retirement plan shall have all unused sick leave at time of retirement credited as additional time worked when calculating the employee's retirement benefits.

**4-304. Bereavement leave.** Bereavement leave is allowed for three (3) working days for a death in an employee's immediate family. The following members are considered immediate family members for which bereavement

time is allowed: spouse, mother, father, legal guardian, son, daughter, brother, sister, mother and father-in-laws.

**4-305. Maternity leave.** Maternity leave is granted with pay for employees who have accumulated sick and/or vacation time or without pay for employees who do not have accumulated sick and/or vacation time, and who have satisfactorily completed their probationary period. A request for maternity leave must be presented to the supervisor in writing, accompanied by a doctor's statement indicating the employee is pregnant. The city requests sixty (60) days notice prior to the commencement of maternity leave. Notice may be waived when a sixty (60) day notice is not practicable due to unforeseen circumstances. Maternity leave may not exceed six (6) work weeks in total or thirty (30) working days. Maternity leave may be extended by the mayor for an additional four (4) weeks due to the mother's inability to return to work, or for caring for the infant. Employees who are in a pay status will continue to accrue benefits while on leave as though they are regularly employed. Upon return from maternity leave, the employee will be restored their former position.

**4-306. Family and medical leave policy.** This section provides for a family medical leave policy in compliance with Public Law 103-3, titled Family and Medical Leave Act (FMLA) of 1993.

(1) **Eligibility.** An eligible employee may take up to twelve (12) weeks of unpaid leave in a twelve (12) month period for the birth and care of a child or the placement and care of a child for adoption or foster care. Leave may also be taken to care for the employee, a child, spouse, or a parent who has a serious health condition. The right to take leave applies equally to male and female employees who are eligible.

Unpaid leave to care for a newborn child or a newly placed adopted or foster care child must be taken before the end of the first twelve (12) months following the date of birth or placement.

An expectant mother may take unpaid medical leave upon the birth of the child, or prior to the birth of the child, for necessary medical care and if her condition renders her unable to work. Similarly, for adoption or foster care, leave may be taken upon the placement of the child or leave may begin prior to the placement if absence from work is required for the placement to proceed.

An employee may take unpaid leave to care for a parent or spouse of any age who, because of a serious mental or physical condition, is in the hospital or other health care facility. An employee may also take leave to care for a spouse or parent of any age who is unable to care for his/her own basic hygiene, nutritional needs, or safety. Examples include a parent or spouse whose daily living activities are impaired by such conditions as Alzheimer's disease, stroke, recovering from major surgery, or the final stages of terminal illness.

Eligible employees who are unable to perform the functions of their position because of a serious health condition may request up to twelve (12)

weeks unpaid leave. The term "serious health condition" covers conditions or illnesses that affect an employee's health to the extent that he/she must be absent from work on a recurring basis or for more than a few days for treatment or recovery.

Employees requesting medical leave due to their own illness or injury shall use any balance of sick leave or vacation time prior to the beginning of unpaid leave. The combination of sick leave, vacation time, and unpaid leave may not exceed twelve (12) weeks. Employees requesting family leave may use unpaid leave. The combination of vacation time and unpaid leave may not exceed twelve (12) weeks.

During periods of unpaid leave, an employee will not accrue any additional seniority or similar employment benefits during the leave period.

If spouses are employed by the same employer and wish to take leave for the care of a new child or a sick parent, their aggregate leave is limited to twelve (12) weeks. For example, if the father takes eight (8) weeks of leave to care for a child, the mother would be entitled to four (4) weeks leave, for a total of twelve (12) weeks.

(2) Right to return to work. On return from FMLA leave, an employee is entitled to be returned to the same position the employee held when leave commenced, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. An employee is entitled to such reinstatement even if the employee has been replaced or his/her position has been reconstructed to accommodate the employee's absence.

If the employee is unable to perform the essential functions of the position because of a physical or mental condition, including the continuation of a serious health condition, the employee has no right to restoration to another position under the FMLA. However, the employer's obligations may be governed by the American with Disabilities Act.

(3) Notification and scheduling. An eligible employee must provide the employer at least thirty (30) days of advance notice of the need for leave for birth, adoption, or planned medical treatment, when the need for leave is foreseeable. This thirty (30) day advance notice is not required in cases of medical emergency or other unforeseen events, such as premature birth or sudden changes in a patient's condition that require a change in scheduled medical treatment.

People who are awaiting the adoption of a child and are given little notice of the availability of the child may also be exempt from this thirty (30) day notice.

It is the city's responsibility to designate leave in writing as FMLA leave and to notify the employee. Employees may not retroactively claim that leave was for FMLA.

The employer will provide the FMLA leave notice in alternate formats.

(4) Certification. The employer reserves the right to verify an employee's request for family/medical leave. If an employee requests leave

because of a serious health condition or to care for a family member with a serious health condition, the employer requires that the request be supported by certification issued by the health care provider of the eligible employee for the family member as appropriate. If the employer has reason to question the original certification, the employer may, at the employer's expense, require a second opinion from a different health care provider chosen by the employer. That health care provider may not be employed by the employer on a regular basis. If a resolution of the conflict cannot be obtained by a second opinion, a third opinion may be obtained from another provider and that opinion will be final and binding.

This certification must contain the date on which the serious health condition began, its probable duration, and appropriate medical fact within the knowledge of the health care provider regarding the condition. The certification must also state the employee's need to care for the son, daughter, spouse, or parent and must include an estimate of the amount of time that the employee is needed to care for the family member.

Medical certifications given will be treated as confidential and privileged information. An employee will be required to report periodically to the employer the status and the intention of the employee to return to work.

Employees who have taken unpaid leave under this policy must furnish the employer with a medical certification from the employee's health care provider at the employees expense, stating that the employee is able to resume work before return is granted.

(a) Maintenance of health and COBRA benefits during unpaid leave. The employer will maintain health insurance benefits, paid by the employer for the employee, during periods of unpaid leave without interruption. Any payment for family coverage/premiums or other payroll deductible insurance policies must be paid by the employee or the benefits may not be continued.

The employer has the right to recover from the employee all health insurance premiums paid during the unpaid leave period if the employee fails to return to work after leave. Employees who fail to return to work because they are unable to perform the functions of their job because of their own serious health condition or because of the continued necessity of caring for a seriously ill family member may be exempt from the recapture provision.

Leave taken under this policy does not constitute a qualifying event that entitles an employee to Consolidated Omnibus Budget Reconstruction Act (COBRA) insurance coverage. However, the qualifying event triggering COBRA coverage may occur when it becomes clearly known that an employee will not return to work, and therefore ceases to be entitled to leave under this policy.

(b) Reduced and intermittent leave. Leave under this policy can be taken intermittently or on a reduced leave schedule when



medically necessary as certified by the health care provider. Intermittent or reduced leave schedules for routine care of a new child can be taken only with approval of the mayor and board of aldermen. The schedule must be mutually agreed upon by the employee and the employer.

Employees on intermittent or reduced leave schedules may be temporarily transferred by the employer to an equivalent alternate position that may better accommodate the intermittent or reduced leave schedule.

Intermittent or reduced leave may be spread over a period of time longer than twelve (12) weeks, but will not exceed the equivalent of twelve (12) work weeks in a twelve (12) month period.

(c) Restoration. Employees who are granted leave under this policy will be reinstated to an equivalent for the same position held prior to the commencement of their leave.

Employees voluntarily accepting a light duty assignment in lieu of continuing FMLA leave maintain their right to restoration to the original or an equivalent job until the twelve (12) weeks of FMLA leave has passed.

(d) The twelve (12) month FMLA period. The twelve (12) month period during which an employee is entitled to twelve (12) workweeks of FMLA leave is measured forward from the date the employee's first FMLA leave begins. An employee is entitled to twelve (12) weeks of leave during the twelve (12) month period after the leave begins. The next twelve (12) month period will begin the first time the employee requests FMLA leave after the completion of the previous twelve (12) month period. (The employer may choose as the 12-month period either the calendar year, a fixed 12-month period, or the 12-month period counted backward from the date of leave.)

(e) Denial of FMLA leave. If an employee fails to give timely advance notice when the need for FMLA leave is foreseeable, the employer may delay the taking of FMLA leave until thirty (30) days after the date the employee provides notice to the employer of the need for FMLA leave.

If an employee fails to provide in a timely manner a requested medical certification to substantiate the need for FMLA leave due to a serious health condition, an employer may delay continuation of FMLA leave until an employee submits the certificate. If the employee never produces the certification, the leave is not FMLA leave.

If an employee fails to provide a requested fitness-for-duty certification to return to work, an employer may delay restoration until the employee submits the certificate.

**4-307. Military leave**. Any full-time employee who is a member of the United States Army Reserve, Navy Reserve, Air Force Reserve, Marine Reserve,

National Guard, or any of the Armed Forces of the United States, will be granted military leave for any field training or active duty required (excluding extended active duty) pursuant to provisions in Tennessee Code Annotated, § 8-33-109. Such leave will be granted upon presentation of the employee's official order to the city council. Compensation for such leave will be for a period not exceeding fifteen (15) working days in any one (1) calendar year, plus such additional days as may result from any call to active state duty pursuant to Tennessee Code Annotated, § 58-1-106. Military leave with pay shall not be charged against the employee's accrued sick leave or vacation time.

**4-308. Jury duty.** Employees may be granted a leave of absence if they are subpoenaed or directed by proper authority to appear in federal or state court as a witness or juror. Employees will be paid the difference between their normal eight (8) hour pay and the amount paid by the court.

**4-309. Special leave.** Subject to approval by the mayor and a majority of the city council, special leave is defined as time off from regular work without pay. Special leave may be granted if it is necessary for an employee to be absent from work and he/she does not have enough accrued leave to cover the absence. Such leave may be used for occasions such as extended military leave, death, or natural catastrophe in an employee's family requiring the employee's presence. Special leave may be granted for a period of time not to exceed ninety (90) workdays. An employee on special leave without pay shall not accrue sick leave or vacation credit while on leave.

The following conditions must be met before extended leave without pay will be granted:

- (1) An employee must use all of his/her accumulated vacation leave.
- (2) All sick leave must have been used.

**4-310. Terminal leave.** If employment with the City of Cowan is terminated except by dismissal for gross misconduct and the employee has accrued annual leave, these usable annual leave days will be converted to terminal leave. The employee will be compensated for these annual days, if approved by the city recorder. Any termination will require an exit interview.

In the event of the death of an employee, payment for his/her accrued, unused annual leave will be made to his estate.

**4-311. Insurance.** Health care insurance is provided through Blue Cross/Blue Shield. The city pays 100% of the premium for employees and 50% of the cost of family coverage. This coverage includes vision and dental. In addition, the city pays for employee life insurance in the amount of fifteen thousand dollars (\$15,000.00). Copies of the insurance policy will be given to employees upon enrollment after ninety (90) days worked. (Ord. #03-06-02, Aug. 2003)

## CHAPTER 4

### MISCELLANEOUS PERSONNEL POLICIES

#### SECTION

- 4-401. Travel policy.
- 4-402. Use of city vehicles and equipment.
- 4-403. Solicitation.
- 4-404. Narcotics and intoxicating liquors.
- 4-405. Fighting, horseplay, damaging city property.
- 4-406. Sexual harassment.
- 4-407. Political activity.
- 4-408. [Deleted.]
- 4-409. Inclement weather.
- 4-410. [Deleted.]
- 4-411. Driving records.
- 4-412. Personal financial interest.
- 4-413. Nepotism.

**4-401. Travel policy.** Trips that involve reimbursement and/or municipal government expense shall not be undertaken without prior approval of the mayor. Mileage shall be reimbursed at Internal Revenue Service allowable rates. Reimbursements for meals and hotel/motel reimbursements shall be made at a reasonable rate with submission of a receipt from the employee. Employees are required to submit the city's standard expense form detailing all expenses at the time reimbursement is requested.

Advancement for travel costs can be made to the employee. The employee shall make request for advance travel costs in writing.

Any employee at his official station or at home between the hours of 7:00 A.M. and 6:30 P.M. will not be entitled to meal reimbursement unless travel during the breakfast or lunch hours is involved and/or requirements for other expenditures are met. Reimbursement for the dinner meal will be paid only if overnight travel is involved.

Requirements for other allowable expenditures are as follows:

(1) Entertainment of industrial prospects, public officials and/or other guests is allowable with approval of the mayor. Reimbursement of actual expenses is allowed; receipts are required to be presented to the business office before reimbursement.

(2) Actual meal expenses are allowable when they are incurred in the actual confines of a hotel/motel where a convention or meeting is being held and there is no alternative restaurant or eating place available at a cheaper rate.

(3) The allowable rate for standard lodging will be the same as for the State of Tennessee employees unless in a high rate district or at a convention/

meeting where room rates are a pre-established conference rate in which case reimbursement will be for actual cost of the lodging.

**4-402. Use of city vehicles and equipment.** Generally, only city employees engaged in the transportation of city personnel and/or material and supplies used to carry out the functions and operations of the departments of the city, and for which the immediate use of a vehicle is actually necessary or convenient, shall drive or ride in city-owned vehicles. However, the following are exceptions to that general policy:

(1) In emergencies where the city employee has a reasonable belief, based on a totality of circumstances, that the life, safety, health, or physical welfare of a citizen would be immediately threatened without the security and/or transportation the city-owned vehicle could provide him or her. Examples of such emergencies include, but are not limited to, accidents involving personal injury, acute illness, and actual and potential victims of crime and violence.

(2) In motorist/passenger assistance where there is no immediate emergency but, under a totality of circumstances, the city employee has a reasonable belief that the failure to transport the motorist and/or passengers in a city-owned vehicle could result in such persons being left in real or potentially real danger, or would result in extreme inconvenience to them. The use of city-owned vehicle in such cases shall be limited to transporting motorists and their passengers only to those places where they are reasonably safe, and have a reasonable opportunity to obtain continued help without further conveyance in the city-owned vehicle.

(3) When it is necessary for reasons of inclement weather, late hour, lack of transportation, or other reasonable cause, to transport non-city personnel to and from city-owned property, and to repair, supply and similar facilities, so that such personnel can install, repair or maintain city equipment essential to the continuation or restoration of public services essential to the safety, health, and welfare of the citizens of the city.

(4) In the transportation of federal, state, and local officers and employees, and news media, private consultants, business persons, and other private persons visiting the city for the purpose of directly analyzing, reviewing, supporting, assisting or promoting the city's functions and operations.

(5) When the vehicle is being driven to or picked up from private maintenance or repair facilities, and while it is being "road-tested" while in the possession of such facilities.

(6) City employees who are assigned and required to drive city vehicles home are not permitted to carry, as passengers, members of their households, and those non-members of their households.

City-owned vehicles, under both the general policy and its exceptions, shall not ordinarily be taken outside the city. However, the city recorder, department heads and their designees shall have the authority to grant

exceptions to this policy, to the extent that such exceptions are for legitimate necessary city business. In addition, travel a reasonable distance outside the city limits by city employees under the exceptions to the policy prohibiting them from transporting non-city employees in city-owned vehicles is authorized. Reports of such travel shall be made to the employee's department head the first working day following such travel. The report shall include the purpose, duration and distance of the travel outside the city, and any other information the department head requires to make a determination that the travel conformed to this policy. The department head shall keep a permanent file of such reports.

Non-emergency city vehicles shall obey all traffic laws under this general policy and its exceptions.

**4-403. Solicitation.** The city believes that its employees should not be exposed to frequent solicitations for charitable purposes; therefore, solicitation shall be limited to as few visits as necessary during the course of the year.

**4-404. Narcotics and intoxicating liquors.** The City of Cowan 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. Employees must be free from drug or alcohol dependence, illegal use, or drug/alcohol abuse.

The city and its employees may be subject to liability if the city fails to address and ensure that employees can perform their duties without endangering themselves or the public.

There is sufficient evidence to conclude that the use of illegal drugs/alcohol, drug/alcohol dependence and drug/alcohol abuse seriously impairs 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. Therefore, the City of Cowan has adopted this written policy to ensure an employee's fitness for duty as a condition of employment; to ensure drug tests are ordered as the result of reasonable suspicion by supervisory personnel and based on observed behavior or work performance; and to notify employees that testing is a requirement of employment.

(1) **General rules.** (a) City employees shall not take or be under the influence of any narcotics or dangerous substance unless prescribed by the employee's licensed physician.

(b) City employees are prohibited from the use, possession and sale of drugs, alcohol or any other controlled substance on city property or in city vehicles.

(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 to inspection by the employee's supervisor after reasonable advance notice (unless waived by the city council) and in the presence of the employee.

(d) 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.

(e) Failure to comply with the intent or provisions of this general order may be used as grounds for disciplinary action.

(2) Job applicant testing; general standard. Applicants for the positions of public safety officers and CDL operators of heavy equipment with the city will be required to undergo a drug test after a conditional offer of employment and prior to their final appointment.

(3) Current employees; reasonable suspicion. The city may require a current city employee to undergo drug and alcohol testing if there is reasonable suspicion that the employee is under the influence of drugs or alcohol during work hours. "Reasonable suspicion" means an articulated belief based on specific facts and reasonable inferences drawn from those facts that an employee is under the influence of drugs or alcohol. Circumstances that constitute a basis for determining "reasonable suspicion" may include, but are not limited to:

- (a) A pattern of abnormal or erratic behavior;
- (b) Information provided by a reliable and credible source;
- (c) A work related accident;
- (d) Direct observation of drug or alcohol use; or
- (e) Presence of the physical symptoms of drug or alcohol use (i.e. glassy or bloodshot eyes, alcohol odor on breath, slurred speech, poor coordination or reflexes).

Supervisors are required to detail in writing the specific facts, symptoms, or observations that formed the basis for their determination that suspicion existed to warrant the testing of an employee. This documentation shall be forwarded to the appropriate department head or designated alternate.

**4-405. Fighting, horseplay, damaging city property.** Fighting, horseplay, and intentionally defacing or damaging city property is not permitted. Employees engaging in these activities will be subject to disciplinary action.

**4-406. Sexual harassment.** The definition of sexual harassment includes conduct directed by men toward women, conduct directed by men toward men, conduct directed by women toward men, and conduct directed by women toward women. Consequently, this policy applies to all officers and employees of the City of Cowan, 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 regulations of the city, and employees working under contract for the city.

(1) Definition. 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 gender-oriented comments on appearance; telling embarrassing gender-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.

(2) Making sexual harassment complaints. (a) The city may be held liable for the actions of all employees with regard to sexual harassment and therefore will not tolerate the sexual harassment of its employees. The city will take immediate, positive steps to stop such harassment when it occurs.

(b) By law, the city is responsible for acts of sexual harassment in the work place where the city (or its agents or supervisory employees) knows or should have known of the conduct, unless it can be shown that the city took immediate and appropriate corrective action. The city may also be responsible for the acts of non-employees with respect to the sexual harassment of employees in the work place, where the city (or its agents or supervisory employees) knows or should have known of the conduct and failed to take immediate and appropriate corrective action.

(c) Prevention is the best tool for the elimination of sexual harassment. Therefore, the following rules shall be strictly enforced. Any employee who feels he/she is being subjected to sexual harassment should immediately contact one of the persons below. Complaints may be made orally or in writing to:

- (i) The employee's immediate supervisor;
- (ii) The employee's department head;
- (iii) The mayor;
- (iv) The city council;
- (v) The city recorder.

(d) 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:

- (i) Official's or employee's name, department, and position title;

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

(iii) 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).

(iv) Witnesses to the harassment;

(v) Whether the employee has previously reported the harassment and, if so, when and to whom.

(3) Reporting and investigation of sexual harassment complaints.

(a) The mayor is designated by the city to be the investigator of complaints of sexual harassment against employees. In the event the sexual harassment complaint is against the mayor, the investigator shall be a city employee appointed by the city council.

(b) When an employee makes an allegation of sexual harassment, the person to whom the complaint is made shall immediately prepare a report of the complaint according to the preceding section and submit it to the mayor.

(c) The investigator shall make and keep a written record of the investigation, including notes of verbal responses made to the investigator by the person complaining of sexual harassment, witnesses interviewed during the investigation, the person against whom the complaint of sexual harassment was made, and any other person contacted by the investigator in connection with the investigation. The notes shall be made at the time the verbal interview is in progress.

(d) Upon conclusion of the investigation, the investigator shall prepare a report of the findings and present them to the mayor. The report shall include the written statement of the person complaining of sexual harassment, the written statement of witnesses, the written statement of the person against whom the complaint of sexual harassment was made, and all the investigator's notes connected to the investigation.

(4) Action on complaints of sexual harassment. (a) Upon receipt of a report of the investigation of a complaint of sexual harassment, the mayor shall immediately review the report. If the mayor determines that the report is not complete in some respect, he/she may question the person complaining of sexual harassment, the person against whom the complaint has been made, witnesses to the conduct in question or any other person who may have knowledge about the harassment.

(b) Based upon the report and his/her own investigation, where one is made, the mayor shall, within a reasonable time, determine whether the conduct of the person against whom a complaint of harassment has been made constitutes sexual harassment. In making



that determination, the mayor shall look at the record as a whole and at the totality of circumstances, including the nature of the conduct in question, the context in which the conduct, if any, occurred, and the conduct of the person complaining. The determination of whether sexual harassment occurred will be made on a case-by-case basis. If the mayor determines that the complaint of harassment is founded, he/she shall take immediate and appropriate disciplinary action against the employee guilty of sexual harassment, consistent with his authority under the city charter, ordinances or rules governing his authority to discipline employees.

(c) The disciplinary action shall be consistent with the nature and severity of the offense, the rank of the employee, and any other factors the governing body believes relate to fair and efficient administration of the city, including, but not limited to, the effect of the offense on employee morale and public perception of the offense, and the light in which it casts the city. The disciplinary action may include demotion, suspension, dismissal, warning, or reprimand. A determination of the level of disciplinary action shall also be made on a case-by-case basis.

(d) A written record of disciplinary actions taken shall be kept, including verbal reprimands. In all events, an employee found guilty of sexual harassment shall be warned not to retaliate in any way against the person making the complaint of sexual harassment, witnesses or any other person connected with the investigation of the complaint of sexual harassment.

(e) In cases where the sexual harassment is committed by the mayor against the city employee in the workplace, the city council in consultation with the city attorney shall take immediate and appropriate disciplinary action against the mayor, consistent with the council's authority under the city charter, ordinances or rules governing their authority.

(f) In cases where the sexual harassment is committed by a non-employee against a city employee in the workplace, the mayor in consultation with the city attorney shall take whatever lawful action against the non-employee is necessary to bring the sexual harassment to an immediate end.

(5) Obligation of employee. Not only are employees encouraged to report instances of sexual harassment, they are obligated to report them. Employees are also obligated to cooperate in every investigation of harassment. The obligation includes, but is not necessarily limited to, coming forward with evidence, both favorable and unfavorable, for a person accused of such conduct and fully and truthfully making written reports or verbally answering questions when required to do so by an investigator. Employees are also obligated to refrain from making bad faith accusations of sexual harassment.

Disciplinary action may also be taken against any employee who fails to report instances of sexual harassment, or who fails or refuses to cooperate in the investigation of a complaint of sexual harassment, or who files a complaint of sexual harassment in bad faith.

**4-407. Political activity.**<sup>1</sup> (1) The city charter, Section 3.11 provides that, "no employee of the city shall continue in the employment of the city after becoming a candidate for nomination or election to any public office, but this provision shall not apply to the mayor, councilmen, the city attorney, or other officers of the city. No person shall directly or indirectly give, render or pay any money, service, or other valuable consideration to any person for, or on account of, or in connection with, employment by the city government. No person shall orally, by letter or otherwise, solicit or be in any manner concerned in soliciting any assessment, subscription, or contribution from any employee of the city in connection with any city election. An officer or employee of the city, other than the mayor or a member of council, shall not make and contribution to the campaign funds of any candidate in any city election. Any person who by himself or with others willfully or corruptly violates any provision of this section shall be guilty of a misdemeanor, and upon conviction thereof he shall immediately forfeit and vacate the office or position he holds and be ineligible to hold any office or position of employment in the city government for a period of five (5) years thereafter.

(2) City employees are prohibited from participating in the following political activities as outlined in Article III, Organization and Personnel, Section 3.11.

(a) In elections for municipal office. No city employee, whether on or off duty, whether in or out of uniform, and whether on or off city property, shall at any time or any place:

(i) Become a candidate for, or campaign for, an elective city office;

(ii) Directly or indirectly solicit, receive, collect, handle, disburse or account for assessments, contributions or other funds for a candidate for city office;

(iii) Organize, sell tickets to, promote or actively participate in a fund raising activity of a candidate for city office;

(iv) Take an active part in managing the political campaign for a candidate for city office;

(v) Solicit votes in support of or in opposition to a candidate for city office;

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<sup>1</sup>Nothing in this section is intended to prohibit any municipal government employee from privately expressing his/her political views or from casting his/her vote in all elections.

(vi) Act as a recorder, watcher, challenger or similar officer at the polls on behalf of a candidate for city office;

(vii) Drive voters to the polls on behalf of a candidate for city office;

(viii) Endorse or oppose a candidate for city office in a political advertisement, broadcast, campaign literature or similar material;

(ix) Address a rally or similar gathering of the supporters of opponents of a candidate for city office;

(x) Initiate or circulate a nominating petition for a candidate for city office;

(xi) Wear campaign buttons, pins, hats or other similar attachment, or distribute campaign literature in support or opposition to a candidate for city office.

(b) The city council may grant a city employee a leave of absence to become a candidate for any office other than an elective office of the City of Cowan.

**4-408. [Deleted.]** (as deleted by Ord. #06-09-01, Dec. 2006)

**4-409. Inclement weather.** When weather conditions appear to be so severe that an employee fears for his/her safety in traveling to or from the work site, he/she may be absent if the following conditions are met:

(1) The employee informs his/her immediate supervisor of his/her absence and the reason for it as soon as possible.

(2) The employee reports to work immediately should weather conditions change allowing safe transportation to the work site.

(3) The employee shall deduct the missed workday (or portion thereof) from accumulated vacation time. The reporting of this leave shall follow the same requirements as other leave.

This policy is meant for those who are in immediate danger due to weather conditions only. Should any employee be found to be abusing this policy, he/she shall be subject to disciplinary action.

**4-410. [Deleted.]** (as deleted by Ord. #06-09-01, Dec. 2006)

**4-411. Driving records.** Any employee who is required as a condition of employment to possess and maintain a valid Tennessee driver's or commercial driver's license, must immediately, upon his/her knowledge of same (prior to reporting for duty the next work day) inform his/her supervisor should his/her license become denied, expired, restricted, suspended, or revoked at any time during his/her employment with the city. Periodic review of employees' driving records will be conducted by the mayor to assure adherence to this policy.

**4-412. Personal financial interest.** According to the city charter, Section 3.12, "That any officer or employee of the city shall not profit personally, directly or indirectly, from any business transaction with the city government, nor shall any officer or employee accept any free or preferred service, benefits or concessions from any person, company or firm regulated by or doing business with the city."

**4-413. Nepotism.** No member of an immediate family, (husband, father, brother, son, father-in-law, grandfather, legal foster parents and children, wife, mother, sister, daughter, mother-in-law, grandmother, current step children) shall be employed under the same line of supervision. This does not preclude employment of immediate family members under other lines of supervision.

## CHAPTER 5

### SEPARATION AND DISCIPLINE

#### SECTION

- 4-501. Types of separation.
- 4-502. Resignation.
- 4-503. Layoff.
- 4-504. Disability.
- 4-505. Retirement.
- 4-506. Death.
- 4-507. Disciplinary action.
- 4-508. Dismissal.
- 4-509. Grievance procedures.
- 4-510. Appeals process.

**4-501. Types of separation.** All separations of employees from positions with the city shall be designated as one of the following types and shall be accomplished in the manner indicated: resignations, lay-offs, inability to perform the essential functions of the job with or without reasonable accommodation, death, retirement, and dismissal. At the time of separation and prior to final payment, all records, assets, and other items of city property in the employee's custody must be transferred to the department. Any amount due because of shortages shall be withheld from the employee's final compensation.

It is the policy of the City of Cowan to apply and foster a sound program of personnel management. Nothing in this document is to be interpreted as giving an employee any more property rights in their jobs than may already be given by the city charter. These personnel policies, rules and regulations shall be reviewed periodically and may be amended anytime.

**4-502. Resignation.** In the event an employee decides to leave the city's employment, a two-(2) week notice shall be given to his/her supervisor so that arrangements for a replacement can be made. In such a case, employees will be expected to return any/or all city equipment assigned. An unauthorized absence from work for a period of three (3) consecutive working days may be considered by the department head as a resignation.

**4-503. Layoff.** (1) The department head, upon approval from the mayor, may lay-off an employee in the city's service when he/she deems it necessary by reason of shortage of funds, the abolition of a position, or for related reasons that are outside the employer's control and that do not reflect discredit upon the service of the employee.

(2) The duties performed by an employee laid-off may be assigned to other employees already working who hold positions in the appropriate class.

Temporary employees shall be laid-off prior to the lay-off of probationary or regular employees. The order of lay-off shall be in reverse order to total continuous time served upon the date established for the lay-off to become effective. A laid-off employee who is reinstated as an employee of the city within ninety (90) days from the date he/she was laid off shall be reinstated with full benefits as if they had not been laid-off.

**4-504. Disability.** (1) An employee may be separated for disability when he/she cannot perform the essential functions of the job because of physical or mental impairment, which cannot be accommodated without undue hardship or because the disability poses a direct threat to health and safety of others. Reasonable accommodations will include transfer to a comparable position for which the individual is qualified. Action may be initiated by the employee or the city, but in all cases it must be supported by medical evidence acceptable to the city council and the disability must prevent the employee from performing the essential functions of the job. The city may require an examination at its expense to be performed by a licensed physician of its choice.

(2) The Tennessee Worker's Compensation Law shall govern all injuries arising out of and in the course of one's employment. Employees on occupational disability leave are afforded only the benefits accorded to them under the Tennessee Worker's Compensation Law.

(3) Employee shall report immediately any injury incurred in the course of their employment, however minor, to their supervisor or department head and take such first aid or medical treatment as may be necessary. Any employee determined to have been able, but who fails, to make such a report shall not be eligible for occupational disability or injury leave.

(4) When an employee is injured on the job, the supervisor or department head shall immediately notify the risk manager who shall submit an accident report to the safety committee and retain a copy in the safety file. In the event that an accident causes serious bodily injury or death to an employee, the supervisor shall immediately notify the department head.

(5) In the cases where occupational disability to an employee occurs and the employee has been reported as occupationally disabled for a period of thirty (30) calendar days, the department head shall review the progress of the case and make recommendations to the city council as they deem advisable. The city council shall take reasonable steps to place an individual in a comparable position for which he/she is qualified and able to perform the essential functions with or without reasonable accommodations.

(6) Occupational disability leave shall not be extended beyond six (6) months unless authorized by the city council. Extensions shall not be extended for any period in excess of three (3) months at any one time and shall not exceed a total of twelve (12) months from the day following the injury. In all cases of occupational disability, the responsibility of determining the character, degree and potential duration of an injury shall rest with one of the panel of three (3)

licensed, practicing medical doctor(s) designated by the city council. The medical doctor(s) may make periodic examinations, progress reports and recommendations as deemed necessary by the city council.

(7) Before an employee is returned to full duty, he/she must demonstrate his/her fitness for duty by passing the performance test administered by the department head. Such performance test shall only test for ability to perform essential functions. The test measures an employee's ability to perform routine tasks using those skills required for the position. Should an employee be unable to return to work within twelve (12) months from the day following the date of injury, the employee may be subject to separation only:

- (a) If they cannot perform the essential functions due to a disability which cannot reasonably be accommodated;
- (b) If they pose a direct threat to themselves or others.

**4-505. Retirement.** Whenever an employee meets the conditions set forth in the retirement system's regulations, he/she may elect to retire and receive all benefits earned under the appropriate retirement system.

**4-506. Death.** Separation shall be effective as of the date of death of an employee. All compensation due in accordance with these rules shall be paid to the estate of the employee, except for such sums as by law must be paid to the surviving spouse.

**4-507. Disciplinary action.** It is the policy of the City of Cowan to apply and foster a sound program of personnel management. Nothing in this document is to be interpreted as giving an employee any more property rights in their jobs than may already be given by the city charter. These personnel policies, rules and regulations shall be reviewed periodically and may be amended anytime. The policies of the municipal government of the City of Cowan are as follows:

- (1) Reasons for disciplinary action:
  - (a) Abusive and inconsiderate treatment of the public or coworkers;
  - (b) Conviction of criminal charge;
  - (c) Willful destruction of city property;
  - (d) Violation of the rules and regulations of the department or any other failure of good behavior which reflects discredit upon the employee, the department and the city;
  - (e) Stealing, deceit, or other dishonesty;
  - (f) Conduct below the standard of the department;
  - (g) Reporting to work under the influence of alcohol or drugs or the use of the same on the premises.;
  - (h) Filling our another employee's time card;
  - (i) Disloyalty to the aims and ideals of the department;
  - (j) Excessive tardiness, absences, or abuses of leaves of absence;

(k) Inefficiency;

(l) Insubordination or failure to carry out instructions and job assignments.

(2) Types of discipline. (a) Oral. The supervisor shall for just cause issue a verbal reprimand. The reprimand must clearly state that the employee is being formally reprimanded and that he/ she may appeal within three (3) working days.

(b) Written. The supervisor shall for just cause issue an official written reprimand. The reprimand must state clearly that the employee is being formally reprimanded and that he/she may appeal within three (3) working days.

(c) Suspension. In the interest of good discipline, the mayor may, for just cause, suspend an employee without pay for any length of time up to an accumulation of ten (10) working days during a one- month period. An employee who is so suspended shall be given notice of the reasons for the action.

(d) Dismissal. The board of mayor and councilmen may dismiss an employee for just cause, provided any disciplinary action taken by the department head can be supported by evidence strong enough to bear the burden of proof of just cause for such disciplinary action.

The employee must be advised in writing of his appeal rights and procedure to follow if he desires to appeal. Any employee who has or may be disciplined is entitled to a prompt hearing (within ten (10) calendar days) by the board of mayor and councilmen, unless the employee specifically waives it in writing. The purpose of said hearing is to insure that the employee's side of the incident is fully presented. The mayor or city recorder will furnish a copy of the charges to the employee prior to the above-mentioned hearing. At this hearing, the employee shall have the right to ask the attendance of a representative of his choosing. It is the responsibility of the official hearing the charges to notify the employee of his right.

**4-508. Dismissal.** (1) It is the policy of the City of Cowan to apply and foster a sound program of personnel management. Nothing in this document is to be interpreted as giving an employee any more property rights in their jobs than may already be given by the city charter. These personnel policies, rules and regulation shall be reviewed periodically and may be amended any time. The policies of the municipal government of the City of Cowan are as follows:

(a) The department head and mayor may dismiss an employee for good of the city service. Reasons for dismissal may include, but shall not be limited to:

(i) Incompetence or inefficiency in the performance of duties;

(ii) Conviction of a criminal offense or of a malfeasance involving moral turpitude;



(iii) Violation of any lawful and reasonable regulation, order, or direction made or given by a superior or insubordination that constitutes a serious breach of discipline;

(iv) Being intoxicated or drinking any intoxicating beverages while on duty, or being under the influence of a drug or narcotic while on duty;

(v) Theft destruction carelessness, or negligence in the use of the property of the city;

(vi) Disgraceful personal conduct or language toward the public or toward fellow officers or employees;

(vii) Unauthorized absences or abuse of leave privileges;

(viii) Incapacity to perform essential functions of a job because of a permanent or chronic physical or mental defect that cannot be reasonably accommodated;

(ix) Acceptance of any valuable consideration which was given with the expectation of influencing the employee in the performance of his/her duties;

(x) Falsification of records or use of official position for personal advantage;

(xi) Loss of an employee's drivers license and driving privileges by due process of law when the employee's position makes the operation of a motor vehicle necessary in the performance of his/her duties;

(xii) Violation of any of the provisions of the city charter, personnel ordinance, or these rules.

(2) The employee shall be furnished an advance written notice containing the nature of the proposed action, the reasons therefore, and his/her right to appeal the charges orally and/or in writing before the city council, not withstanding revision noted in Section XIII, subsection J, indicating that during the advance notice period the employee may be retained in duty status, placed on leave, or suspended with or without pay at the discretion of the department head. The notice shall be furnished at least one (1) calendar week prior to the proposed effective date of the action. If the employee fails to respond to the advance notice pursuant to the appeals process, the proposed action shall be effective on the date specified with no need for further action.

**4-509 Grievance procedures.** The most effective accomplishment of the work of the city requires prompt consideration and equitable adjustments of employee grievances. A grievance is defined as an employee's feeling of dissatisfaction, a difference, a disagreement, or dispute arising between an employee and his supervisor and/or employer with some aspect of his/her employment, application, or interpretation or regulations and policies, or some management decision affecting him/her. A grievance can be something real, alleged, or a misunderstanding concerning rules and regulations or an

administrative order involving the employee's health, safety, physical facilities, equipment or material used, employee evaluation, promotion, position classification, transfer, layoff, recall, and any other related items. Such misunderstandings, complaints, points of view and opinions will be considered a grievance except in cases where they relate to personnel action arising out of pay, suspension, and dismissal.

It is the desire of the city to address grievances informally, and both supervisors and employees are expected to make every effort to resolve problems as they arise. However, it is recognized that there will be occasional grievances that will be resolved only after a formal appeal and review.

Accordingly, the following procedure is established to insure fair and impartial review:

**STEP ONE:** The employee makes an oral or written presentation of the grievance to the immediate supervisor within twenty (20) working days from the incident which prompted the grievance. It shall be the supervisor's responsibility to promptly investigate the grievance, discuss the matter with the department head, and take the action if possible. The supervisor shall inform the employee in writing of the decision and any action taken within seven (7) working days from the date the grievance was filed.

**STEP TWO:** If the grievance cannot be resolved between the employee and the supervisor during Step 1, the employee may reduce the complaint or grievance to writing and request that the written statement be delivered to the department head (or the mayor if the original grievance was filed with the department head) within three (3) working days of receipt of the department head's or supervisor's response. If the grievance is filed with the mayor, proceed to Step 3. If the employee is not satisfied with the response of the department head, he or she must proceed to Step 3.

**STEP THREE:** If the grievance is not resolved with the department head, the employee may request, in writing within three (3) working days, review by the mayor. The mayor shall make such investigation and obtain the information sufficient to review the grievance within seven (7) working days, and will respond to the employee and the employee's department head in writing.

**STEP FOUR:** If the employee is not satisfied with the mayor's response, the employee may, within three (3) working days of receiving the mayor's response, request in writing a hearing with the city council. The council shall have ten (10) calendar days to schedule a hearing after which it shall provide a written response to the employee with copies to the immediate supervisor and the mayor. The action of the city council is advisory except in situations where, in the opinion of the city council, the proper procedures were not taken by the mayor in addressing the grievance. If so ruled by the city council, their decision shall be binding on the mayor. If the action taken by the mayor and/or department heads is deemed to be in accord with proper procedures, the mayor may either accept or reject the recommendation. The employee shall be notified of the city council's and the mayor's final decision in writing. Every attempt will

be made to resolve the employee's grievance, but the decision of the mayor and/or the city council shall be final and binding on all parties involved unless appealed to the chancery court by the employee or the city.

**4-510. Appeals process.** Any city employee reprimanded, suspended, or dismissed may submit a request in writing to the mayor to have the action reviewed by the city council. An employee must submit the request for an appeal with three (3) working days of receipt of notification of the disciplinary action, and must also state his/her intent to have representation, and to name the representative(s). The city council shall schedule a hearing within ten (10) working days of the receipt of the employee's request for appeal. The action of the city council shall be advisory to the mayor whose decision shall be final and binding on all parties involved unless appealed to chancery court by the employee. However, if the city council determines that procedures established by law were not followed by the mayor and/or department heads, the decision of the city council shall be binding on all parties involved unless appealed to chancery court by the employee or the city.

It is the policy of the City of Cowan to apply and foster a sound program of personnel management. Nothing in this document is to be interpreted as giving an employee any more property rights in their jobs than may already be given by the city charter. These personnel policies, rules and regulations shall be reviewed periodically and may be amended any time.

**CHAPTER 6****SPECIAL NOTE****SECTION**

4-601. Special note.

**4-601. Special note.** These personnel policies are believed to be written within the framework of the Charter of the City of Cowan but in case of conflict, the charter takes precedence. Nothing in this document is to be interpreted as giving an employee any more property rights in their jobs than may already be given by the city charter. These personnel policies, rules and regulations shall be reviewed periodically and may be amended any time.

## CHAPTER 7

### OCCUPATIONAL SAFETY AND HEALTH PROGRAM<sup>1</sup>

#### SECTION

- 4-701. Title.
- 4-702. Purpose.
- 4-703. Coverage.
- 4-704. Standards authorized.
- 4-705. Variances from standards authorized.
- 4-706. Administration.
- 4-707. Funding the program.

**4-701. Title.** This section shall provide authority for establishing and administering the Occupational Safety and Health Program Plan for the employees of the City of Cowan. (Ord. #03-06-01, Aug. 2003)

**4-702. Purpose.** The Cowan City Council, in electing to update their established program plan will maintain an effective occupational safety and health program for its employees and shall:

- (1) Provide a safe and healthful place and condition of employment that includes:
  - (a) Top management commitment and employee involvement;
  - (b) Continually analyze the worksite to identify all hazards and potential hazards;
  - (c) Develop and maintain methods for preventing or controlling existing or potential hazards; and
  - (d) Train managers, supervisors, and employees to understand and deal with worksite hazards.
- (2) Acquire, maintain and require the use of safety equipment, personal protective equipment and devices reasonably necessary to protect employees.
- (3) Make, keep, preserve, and make available to the Commissioner of Labor and Workforce Development of the State of Tennessee, his designated representatives, or persons within the Tennessee Department of Labor and Workforce Development to whom such responsibilities have been delegated, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.
- (4) Consult with the State Commissioner of Labor and Workforce Development with regard to the adequacy of the form and content of records.

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<sup>1</sup>The Occupational Safety and Health Program for the City of Cowan is included in this municipal code as Appendix A.

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

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

(7) Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards, and provide for education and notification of all employees of the existence of this program. (Ord. #03-06-01, Aug. 2003)

**4-703. Coverage.** The provisions of the Occupational Safety and Health Program Plan for the employees of the City of Cowan shall apply to all employees of each administrative department, commission, board, division, or other agency of the City of Cowan whether part-time or full-time, seasonal or permanent. (Ord. #03-06-01, Aug. 2003)

**4-704. Standards authorized.** The occupational safety and health standards adopted by the Cowan City Council 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.<sup>1</sup> (Ord. #03-06-01, Aug. 2003)

**4-705. Variances from standards authorized.** The City of Cowan may, upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with Rules of Tennessee Department of Labor and Workforce Development, Occupational Safety, Chapter 0800-1-2, as authorized by Tennessee Code Annotated, title 50. Prior to requesting such temporary variance, the City of Cowan shall notify or serve notice to employees, their designated representatives, or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board as designated by the city recorder shall be deemed sufficient notice to employees. (Ord. #03-06-01, Aug. 2003)

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<sup>1</sup>State law reference

Tennessee Code Annotated, title 50, chapter 3.

**4-706. Administration.** For the purposes of this chapter, the Mayor of the City of Cowan is designated as the director of occupational safety and health to perform duties and to exercise powers assigned so as to plan, develop, and administer the OSHA program of the City of Cowan. The director shall develop a plan of operation for the program and said plan shall become a part of this chapter when it satisfies all applicable sections of the Tennessee Occupational Safety and Health Act of 1972 and part IV of the Tennessee Occupational Safety and Health Plan. (Ord. #03-06-01, Aug. 2003)

**4-707. Funding the program.** Sufficient funds for administering and staffing the program pursuant to this chapter shall be made available as authorized by the Cowan City Council. (Ord. #03-06-01, Aug. 2003)

## CHAPTER 8

### INFECTIOUS DISEASE CONTROL POLICY

#### SECTION

- 4-801. Purpose.
- 4-802. Coverage.
- 4-803. Administration.
- 4-804. Definitions.
- 4-805. Policy statement.
- 4-806. General guidelines.
- 4-807. Hepatitis B vaccinations.
- 4-808. Reporting potential exposure.
- 4-809. Hepatitis B virus post-exposure management.
- 4-810. Human immunodeficiency virus post-exposure management.
- 4-811. Disability benefits.
- 4-812. Training regular employees.
- 4-813. Training high risk employees.
- 4-814. Training new employees.
- 4-815. Records and reports.
- 4-816. Legal rights of victims of communicable diseases.

**4-801. Purpose.** It is the responsibility of the City of Cowan to provide employees a place of employment which is free from recognized hazards that may cause death or serious physical harm. In providing services to the citizens of the City of Cowan, employees may come in contact with life-threatening infectious diseases which can be transmitted through job related activities. It is important that both citizens and employees are protected from the transmission of diseases just as it is equally important that neither is discriminated against because of basic misconceptions about various diseases and illnesses.

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

**4-802. Coverage.** Occupational exposures may occur in many ways, including needle sticks, cut injuries or blood spills. Several classes of employees are assumed to be at high risk for blood borne infections due to their routinely increased exposure to body fluids from potentially infected individuals. Those high risk occupations include but are not limited to:

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



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

**4-803. Administration.** This infection control policy shall be administered by the mayor or his/her designated representative who shall have the following duties and responsibilities:

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

**4-804. Definitions.** (1) "Body fluids," fluids that have been recognized by the Center for Disease Control as directly linked to the transmission of HIV and/or HBV and/or to which universal precautions apply: blood, semen, blood products, vaginal secretions, cerebrospinal fluid, synovial fluid, pericardial fluid, amniotic fluid, and concentrated HIV or HBV viruses.

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

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

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

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

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

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

**4-805. Policy statement.** All blood and other potentially infectious materials are infectious for several blood-borne pathogens. Some body fluids can also transmit infections. For this reason, the Center for Disease Control developed the strategy that everyone should always take particular care when there is a potential exposure. These precautions have been termed "universal precautions."

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

**4-806. General guidelines.** General guidelines which shall be used by everyone include:

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

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

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

(4) All workers shall take precautions to prevent injuries caused by needles, scalpel blades, and other sharp instruments. To prevent needle stick injuries, needles shall not be recapped, purposely bent or broken by hand, removed from disposable syringes, or otherwise manipulated by hand. After they are used, disposable syringes and needles, scalpel blades and other sharp items shall be placed in puncture resistant containers for disposal. The

puncture resistant container shall be located as close as practical to the use area.

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

(a) While handling an individual where exposure is possible;

(b) While cleaning or handling contaminated items or equipment;

(c) While cleaning up an area that has been contaminated with one of the above;

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

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

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

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

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

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

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

(12) Tags shall be used as a means of preventing accidental injury or illness to employees who are exposed to hazardous or potentially hazardous

conditions, equipment or operations which are out of the ordinary, unexpected or not readily apparent. Tags shall be used until such time as the identified hazard is eliminated or the hazardous operation is completed.

All required tags shall meet the following criteria:

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

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

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

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

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

(14) Whenever possible, disposable equipment shall be used to minimize and contain clean-up.

**4-807. Hepatitis B vaccinations.** The City of Cowan shall offer the appropriate Hepatitis B vaccination to employees at risk of exposure free of charge and in amounts and at times prescribed by standard medical practices. The vaccination shall be voluntarily administered. High risk employees who wish to take the HBV vaccination should notify their department head who shall make the appropriate arrangements through the Infectious Disease Control Coordinator.

**4-808. Reporting potential exposure.** City employees shall observe the following procedures for reporting a job exposure incident that may put them at risk for HIV or HBV infections (i.e., needle sticks, blood contact on broken skin, body fluid contact with eyes or mouth, etc.):

(1) Notify the Infectious Disease Control Coordinator of the contact incident and details thereof.

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

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

Once an exposure has occurred, a blood sample should be drawn after consent is obtained from the individual from whom exposure occurred and tested for Hepatitis B surface antigen (HBsAg) and/or antibody to human immunodeficiency virus (HIV antibody). Testing of the source individual should be done at a location where appropriate pretest counseling is available. Post-test counseling and referral for treatment should also be provided.

**4-809. Hepatitis B virus post-exposure management.** For an exposure to a source individual found to be positive for HBsAg, the worker who has not previously been given the hepatitis B vaccine should receive the vaccine series. A single dose of hepatitis B immune globulin (HBIG) is also recommended, if it can be given within seven (7) days of exposure.

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

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

**4-810. Human immunodeficiency virus post-exposure management.** For any exposure to a source individual who has AIDS, who is found to be positive for HIV infection, or who refuses testing, the worker should be counseled regarding the risk of infection and evaluated clinically and serologically for evidence of HIV infection as soon as possible after the exposure. The worker should be advised to report and seek medical evaluation for any acute febrile illness that occurs within twelve (12) weeks after the exposure. Such an illness, particularly one characterized by fever, rash, or lymphadenopathy, may be indicative of recent HIV infection.

Following the initial test at the time of exposure, seronegative workers should be retested six (6) weeks, twelve (12) weeks, and six (6) months after exposure to determine whether transmission has occurred. During this follow-up period (especially the first six (6) to twelve (12) weeks after exposure) exposed workers should follow the U.S. Public Health service recommendation for preventing transmission of HIV. These include refraining from blood donations and using appropriate protection during sexual intercourse. During all phases of follow-up, it is vital that worker confidentiality be protected.

If the source individual was tested and found to be seronegative, baseline testing of the exposed worker with follow-up testing twelve (12) weeks later may

be performed if desired by the worker or recommended by the health care provider. If the source individual cannot be identified, decisions regarding appropriate follow-up should be individualized. Serologic testing should be made available by the city to all workers who may be concerned they have been infected with HIV through an occupational exposure.

**4-811. Disability benefits.** Entitlement to disability benefits and any other benefits available for employees who suffer from on-the-job injuries will be determined by the Tennessee Worker's Compensations Bureau in accordance with the provisions of Tennessee Code Annotated, § 50-6-303.

**4-812. Training regular employees.** On an annual basis all employees shall receive training and education on precautionary measures, epidemiology, modes of transmission and prevention of HIV/HBV infection and procedures to be used if they are exposed to needle sticks or potentially infectious materials.

They shall also be counseled regarding possible risks to the fetus from HIV/HBV and other associated infectious agents.

**4-813. Training high risk employees.** In addition to the above, high risk employees shall also receive training regarding the location and proper use of personal protective equipment. They shall be trained concerning proper work practices and understand the concept of "universal precautions" as it applies to their work situation. They shall also be trained about the meaning of color coding and other methods used to designate contaminated material. Where tags are used, training shall cover precautions to be used in handling contaminated material as per this policy.

**4-814. Training new employees.** During the new employee's orientation to his/her job, all new employee will be trained on the effects of infectious disease prior to putting them to work.

**4-815. Records and reports.** (1) Reports. Occupational injury and illness records shall be maintained by the infectious disease control coordinator. Statistics shall be maintained on the OSHA-200 report. Only those work-related injuries that involve loss of consciousness, transfer to another job, restriction of work or motion, or medical treatment are required to be put on the OSHA-200.

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

(3) Prescription medication. Likewise, the use of prescription medication (beyond a single dose for minor injury or discomfort) is considered

medical treatment. Since these types of treatment are considered necessary, and must be administered by physician or licensed medical personnel, such injuries cannot be considered minor and must be reported.

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

**4-816. Legal rights of victims of communicable diseases**. Victims of communicable diseases have the legal right to expect, and municipal employees, including police and emergency service officers are duty bound to provide, the same level of service and enforcement as any other individual would receive.

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

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

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

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

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

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

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

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

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

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

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



**TITLE 5**

**MUNICIPAL FINANCE AND TAXATION<sup>1</sup>**

**CHAPTER**

1. MISCELLANEOUS.
2. REAL AND PERSONAL PROPERTY TAXES.
3. PRIVILEGE TAXES.
4. WHOLESALE BEER TAX.

**CHAPTER 1**

**MISCELLANEOUS**

**SECTION**

- 5-101. Official depository for city funds.
- 5-102. Purchasing--spending limits.

**5-101. Official depository for city funds.** Regions Bank is hereby designated as the official depository for all city funds.

**5-102. Purchasing--spending limits.** (1) Purchase orders required. Every purchase over fifty dollars (\$50.00) must be accompanied by a purchase order number.

(2) Mayoral approval. The mayor may approve purchases up to five hundred dollars (\$500.00).

(3) Council approval. Purchases in the range of five hundred one dollars (\$501.00) to two thousand dollars (\$2,000.00) must be approved by a majority of the city council.

(4) Quotes required. Whenever possible, at least three (3) quotes are required for purchases in the range of two thousand one dollars (\$2,001.00) to five thousand dollars (\$5,000.00); public advertisement or sealed bids are not required.

(5) Public advertisement required. Public advertisement and competitive sealed bids are required for purchases of five thousand one dollars (\$5,001.00) and over. (as added by Ord. #06-09-02, Dec. 2006)

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<sup>1</sup>Charter reference

Fiscal administration: Art. IV.

## CHAPTER 2

**REAL AND PERSONAL PROPERTY TAXES****SECTION**

5-201. When due and payable.

5-202. When delinquent--penalty and interest.

**5-201. When due and payable.**<sup>1</sup> Taxes levied by the city against real and personal property shall become due and payable annually on the first day of October of the year for which levied.

**5-202. When delinquent--penalty and interest.**<sup>2</sup> All real property taxes shall become delinquent on and after the first day of March next after they become due and payable and shall thereupon be subject to such penalty and interest as is authorized and prescribed by the state law for delinquent county real property taxes.<sup>3</sup>

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<sup>1</sup>State law reference

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

<sup>2</sup>State law reference

Tennessee Code Annotated, § 67-5-2010(b) provides that if the county trustee collects the municipality's property taxes, a penalty of ½ of 1% and interest of 1% shall be added on the first day of March following the tax due date, and on the first day of each succeeding month.

<sup>3</sup>Charter and state law references

A municipality has the option of collecting delinquent property taxes any one of three ways:

- (1) Under the provisions of its charter for the collection of delinquent property taxes.
- (2) Under Tennessee Code Annotated, §§ 6-55-201--6-55-206.
- (3) By the county trustee under Tennessee Code Annotated, § 67-5-2005.

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

5-301. Tax levied.

5-302. License required.

**5-301. Tax levied.** Except as otherwise specifically provided in this code, there is hereby levied on all vocations, occupations, and businesses declared by the general laws of the state to be privileges taxable by municipalities, an annual privilege tax in the maximum amount allowed by state laws. The taxes provided for in the state's "Business Tax Act" (Tennessee Code Annotated, § 67-4-701, et seq.) are hereby expressly enacted, ordained, and levied on the businesses, business activities, vocations, and occupations carried on within the city at the rates and in the manner prescribed by the act.

**5-302. License required.** No person shall exercise any such privilege within the city without a currently effective privilege license, which shall be issued by the recorder to each applicant therefor upon the applicant's payment of the appropriate privilege tax. Violations of this section shall be punished under the general penalty provisions of this code of ordinances.

## CHAPTER 4

**WHOLESALE BEER TAX****SECTION**

5-401. To be collected.

**5-401. To be collected.** The city recorder is hereby directed to take appropriate action to assure payment to the city of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in Tennessee Code Annotated, title 57, chapter 6.<sup>1</sup>

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<sup>1</sup>State law reference

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

Municipal code references

Alcohol and beer regulations: title 8.

Beer privilege tax: § 8-208.

## TITLE 6

LAW ENFORCEMENT

## CHAPTER

1. POLICE DEPARTMENT.
2. ARREST PROCEDURES.
3. CITATIONS, WARRANTS, AND SUMMONSES.

## CHAPTER 1

POLICE DEPARTMENT<sup>1</sup>

## SECTION

- 6-101. Policemen subject to chief's orders.  
6-102. Policemen to preserve law and order, etc.  
6-103. Police department records.

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.

6-102. Policemen to preserve law and order, etc. Policemen shall preserve law and order within the city. They shall patrol the city and shall assist the city court during the trial of cases. Policemen shall also promptly serve any legal process issued by the city court.

6-103. Police department records. The police department shall keep a comprehensive and detailed daily record in permanent form, showing at a minimum:

- (1) All known or reported offenses and/or crimes committed within the corporate limits.
- (2) All arrests made by policemen.
- (3) All police investigations made, funerals convoyed, fire calls answered, and other miscellaneous activities of the police department.
- (4) Any other records required to be kept by the board of mayor and aldermen or by law.

The police chief shall be responsible for insuring that the police department complies with the section.

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<sup>1</sup>Municipal code reference

Traffic citations, etc.: title 15, chapter 7.

## CHAPTER 2

ARREST PROCEDURES

## SECTION

6-201. When policemen to make arrests.

6-202. Disposition of persons arrested.

6-201. When policemen to make arrests.<sup>1</sup> Unless otherwise authorized or directed in this code or other applicable law, an arrest of the person shall be made by a policeman in the following cases:

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

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

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

6-202. Disposition of persons arrested. (1) For code or ordinance violations. Unless otherwise authorized by law, a person arrested for a violation of this code or other city ordinance, shall be brought before the city court. However, if the city court is not in session, the arrested person shall be allowed to post bond with the city court clerk, or, if the city court clerk is not available, with the ranking police officer on duty. If the arrested person is under the influence of alcohol or drugs when arrested, even if he is arrested for an offense unrelated to the consumption of alcohol or drugs, the person shall be confined until he does not pose a danger to himself or to any other person.

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

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<sup>1</sup>Municipal code reference

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

## CHAPTER 3

CITATIONS, WARRANTS, AND SUMMONSES

## SECTION

6-301. Citations in lieu of arrest in non-traffic cases.

6-302. Summonses in lieu of arrest.

6-301. Citations in lieu of arrest in non-traffic cases.<sup>1</sup> Pursuant to Tennessee Code Annotated, § 7-63-101, et seq., the city council appoints the fire chief in the fire department and the building inspector in the building department special police officers having the authority to issue citations in lieu of arrest. The fire chief in the fire department shall have the authority to issue citations in lieu of arrest for violations of the fire code adopted in title 7, chapter 2 of this municipal code of ordinances. The building inspector in the building department shall have the authority to issue citations in lieu of arrest for violations of the building, utility and housing codes adopted in title 12 of this municipal code of ordinances.

The citation in lieu of arrest shall contain the name and address of the person being cited and such other information necessary to identify and give the person cited notice of the charges against him, and state a specific date and place for the offender to appear and answer the charges against him. The citation shall also contain an agreement to appear, which shall be signed by the offender. If the offender refuses to sign the agreement to appear, the special officer in whose presence the offense was committed shall immediately arrest the offender and dispose of him in accordance with Tennessee Code Annotated, § 7-63-104.

It shall be unlawful for any person to violate his agreement to appear in court, regardless of the disposition of the charge for which the citation in lieu of arrest was issued.

6-302. Summonses in lieu of arrest. Pursuant to Tennessee Code Annotated, § 7-63-201, et seq., which authorizes the city council to designate certain city enforcement officers the authority to issue ordinance summonses in the areas of sanitation, litter control and animal control, the board designates the police chief to issue ordinance summonses in those areas. These enforcement officers may not arrest violators or issue citations in lieu of arrest, but upon witnessing a violation of any ordinance, law or regulation in the areas of sanitation, litter control or animal control, may issue an ordinance summons and give the summons to the offender.

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<sup>1</sup>Municipal code reference

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

The ordinance summons shall contain the name and address of the person being summoned and such other information necessary to identify and give the person summoned notice of the charge against him, and state a specific date and place for the offender to appear and answer the charges against him.

The ordinance summons shall also contain an agreement to appear, which shall be signed by the offender. If the offender refuses to sign the agreement to appear, the enforcement officer in whose presence the offense occurred may

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

The police officer who witnesses the violation may issue a citation in lieu of arrest for the violation, or arrest the offender for failure to sign the citation in lieu of arrest. If the police officer makes an arrest, he shall dispose of the person arrested as provided in § 6-301 above.

It shall be unlawful for any person to violate his agreement to appear in court, regardless of the disposition of the charge for which the ordinance summons was issued.



**TITLE 7**

**FIRE PROTECTION AND FIREWORKS**<sup>1</sup>

**CHAPTER**

1. LIFE SAFETY CODE.
2. FIRE CODE.
3. VOLUNTEER FIRE DEPARTMENT.
4. FIREWORKS.

**CHAPTER 1**

**LIFE SAFETY CODE**

**SECTION**

7-101. NFPA 101 Life Safety Code, 2003 edition.

**7-101. NFPA 101 Life Safety Code, 2003 edition.** As recommended by the National Fire Protection Association, the NFPA 101 Life Safety Code, 2003 edition, is hereby adopted by reference and included as a part of this code.

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<sup>1</sup>Municipal code reference  
Building and utility codes: title 12.

## CHAPTER 2

### FIRE CODE<sup>1</sup>

#### SECTION

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

**7-201. Fire code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, the International Fire Code,<sup>2</sup> 2006 edition, is hereby adopted by reference and included as a part of this code. Pursuant to the requirement of Tennessee Code Annotated, § 6-54-502, one (1) copy of the International Fire Code has been filed with the city recorder and is available for public use and inspection. The International Fire Code is adopted and incorporated as fully as if set out at length herein and shall be controlling within the corporate limits. (as amended by Ord. #11-06-01, Aug. 2011)

**7-202. Modifications.** The International Fire Code adopted in § 7-201 above is modified by deleting therefrom section 112, titled Board of Appeals, in its entirety; § 7-205 below shall control appeals.

**7-203. Definition of "municipality."** Whenever the word "municipality" is used in the fire code herein adopted, it shall be held to mean the City of Cowan, Tennessee. (as amended by Ord. #11-06-01, Aug. 2011)

**7-204. Gasoline trucks.** No person shall operate or park any gasoline tank truck within the central business district or within any residential area at any time except for the purpose of, and while actually engaged in, the expeditious delivery of gasoline.

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<sup>1</sup>Municipal code reference  
Building and utility codes: title 12.

<sup>2</sup>Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

**7-205. Variances.** The chief of the fire department may recommend to the board of mayor and aldermen variances from the provisions of the uniform fire code upon application in writing by any property owner or lessee, or the duly authorized agent of either, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such variances when granted or allowed shall be contained in a resolution of the city council.

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

## CHAPTER 3

### VOLUNTEER FIRE DEPARTMENT<sup>1</sup>

#### SECTION

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

**7-301. Establishment, equipment, and membership.** There is hereby established a volunteer fire department to be supported and equipped from appropriations by the city council. Any funds raised by the volunteer fire department as a whole, or by any individual or group of volunteer firemen in the name of the volunteer fire department, and any gifts to the volunteer fire department shall be turned over to and become the property of, the city and the city shall use such funds in the equipping of the volunteer fire department. All other apparatus, equipment, and supplies of the volunteer fire department shall be purchased by or through the city and shall be and remain the property of the city. The volunteer fire department shall be composed of a chief appointed by the city council, and such number of subordinate officers and firemen as the fire chief shall appoint, subject to approval by the city council.<sup>2</sup>

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

- (1) To prevent uncontrolled fires from starting.
- (2) To prevent the loss of life and property because of fires.
- (3) To confine fires to their places of origin.
- (4) To extinguish uncontrolled fires.
- (5) To prevent loss of life from asphyxiation or drowning.
- (6) To perform such rescue work as its equipment and/or the training of its personnel makes practicable.

**7-303. Organization, rules, and regulations.** The chief of the volunteer fire department shall set up the organization of the department, make definite assignments to individuals, and shall formulate and enforce such rules

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<sup>1</sup>Municipal code reference

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

<sup>2</sup>Subject to approval by the city council.

and regulations as shall be necessary for the orderly and efficient operation of the volunteer fire department, under such rules and regulations as the city council may prescribe.

**7-304. Records and reports.** The chief of the volunteer fire department shall keep adequate records of all fires, inspections, apparatus, equipment, personnel, and work of the department. He shall submit such written reports on those matters to the mayor or to the city council as they may require.

**7-305. Tenure and compensation of members.** The fire chief shall have the authority to suspend or discharge any other member of the volunteer fire department when he deems such action to be necessary for the good of the department. The fire chief may be suspended up to thirty (30) days by the mayor but may be dismissed only by the city council.

All personnel of the volunteer fire department shall receive such compensation for their services as the city council may from time to time prescribe.

**7-306. Chief responsible for training and maintenance.** The chief of the fire department, shall be fully responsible for the training of the firemen and for maintenance of all property and equipment of the fire department, under the direction and subject to the requirements of the city council.

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

## CHAPTER 4

### FIREWORKS

#### SECTION

- 7-401. Purpose.
- 7-402. Definitions.
- 7-403. Permits required.
- 7-404. Permit fee.
- 7-405. Privilege licenses required.
- 7-406. Permissible types of fireworks.
- 7-407. Conditions for sale and use of permissible items.
- 7-408. Retail sale of permissible items -- time limitations -- exceptions.
- 7-409. Public displays -- permits -- regulation.
- 7-410. Regulations governing storing, locating or display of fireworks.
- 7-411. Unlawful acts in the sale, handling or private use of fireworks.
- 7-412. Seizure and destruction of fireworks.
- 7-413. Penalty for violation.
- 7-414. Exceptions to application.

**7-401. Purpose.** The purpose of this chapter is to provide for the manufacture, sale, display and use of certain fireworks for both private and public display within the corporate limits of the City of Cowan, Tennessee within certain guidelines which shall provide for the general safety and welfare of the citizens thereof. (as added by Ord. #10-10-01, Dec. 2010)

**7-402. Definitions.** As used in this chapter, the following terms shall have the meaning ascribed to them herein, unless clearly indicated otherwise:

(1) "D.O.T. Class C common fireworks" means all articles of fireworks as are now or hereafter classified as "D.O.T. Class C common fireworks" in the regulations of the United States Department of Transportation for transportation of explosive and other dangerous articles.

(2) "Distributor" means any person engaged in the business of making sales of fireworks to any other person engaged in the business of reselling fireworks either as a retailer, wholesaler, or any person who receives, brings or imports any fireworks of any kind, in any manner into the City of Cowan, except to a holder of a manufacturer's, distributor's or wholesaler's permit issued by the state fire marshal and the City of Cowan Volunteer Fire Department.

(3) "Manufacturer" means any person engaged in the making, manufacture or construction of fireworks of any kind within the City of Cowan.

(4) "Permit" means the written authority of the Cowan Volunteer Fire Department issued under the authority of this chapter.

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

(6) "Retailer" means any person engaged in the business of making retail sales of fireworks at specified times during the year as provided herein.

(7) "Sale" means an exchange of articles of fireworks for money and also includes the barter, exchange, gift or offer thereof, and each such transaction made by any person, whether as principal, proprietor, salesman, agent, association, co-partnership, or any one (1) or more individuals.

(8) "Special fireworks" means all articles of fireworks that are classified as Class B explosives in the regulations of the United States Department of Transportation and includes all articles other than those classified as Class C. (as added by Ord. #10-10-01, Dec. 2010)

**7-403. Permits required.** It shall be unlawful for any person to manufacture, sell, offer for sale, ship or cause to be shipped into the City of Cowan, except as herein provided, any item of fireworks, without first having secured the required applicable permit as a manufacturer, distributor, wholesaler or retailer, from both the City of Cowan and the state fire marshal (as required by Tennessee Code Annotated, § 68-104-101, et seq.), possession of said permits being hereby made a condition prerequisite to manufacturing, selling or offering for sale, shipping or causing to be shipped any fireworks into the City of Cowan, except as herein provided. Permits issued under this section are not transferable. (as added by Ord. #10-10-01, Dec. 2010)

**7-404. Permit fee.** The permit fee for the permit provided for in § 7-403 of this chapter shall be five hundred dollars (\$500.00) and the permit shall be valid for twelve (12) months. However, the Cowan City Council may at its discretion waive the permit fee for any non-profit organization requesting the permit. (as added by Ord. #10-10-01, Dec. 2010)

**7-405. Privilege licenses required.** The issuance of permits provided for herein shall not replace or relieve any person or state, county or municipal privilege licenses as now or hereafter provided by law. (as added by Ord. #10-10-01, Dec. 2010)

**7-406. Permissible types of fireworks.** It is unlawful for any individual, firm, partnership or corporation to possess, sell or use within the City of Cowan, or ship into the City of Cowan, except as provided in this chapter, any pyrotechnics commonly know as "fireworks" other than the following permissible items:

(1) Those items now or hereafter classified as D.O.T. Class C common fireworks; or

(2) Those items that comply with the construction, chemical composition and labeling regulations promulgated by the United States Consumer Product Safety Commission and permitted for use by the general public under its regulations. (as added by Ord. #10-10-01, Dec. 2010)

**7-407. Conditions for sale and use of permissible articles.** No permissible articles of common fireworks shall be sold, offered for sale, or possessed within the City of Cowan, or used within the city, except as herein provided unless it is properly named to conform to the nomenclature and unless it is certified as "common fireworks" on all shipping cases and by imprinting on the article or retail container "D.O.T. Class C common fireworks," such imprint to be of sufficient size and so positioned as to be readily recognized by law enforcement authorities and the general public. (as added by Ord. #10-10-01, Dec. 2010)

**7-408. Retail sale of permissible articles -- time limitations -- exceptions.** Permissible articles of fireworks may be sold at retail in the City of Cowan and used within the City of Cowan from June 20th through July 5th, and December 10th through January 2nd of each year only, except that "fireworks" does not include toy pistols, toy canes, toy guns, or other devices in which paper caps containing twenty-five one-hundredths (25/100) grains or less of explosive compounds are used, provided they are so constructed that the hand cannot come in contact with the cap when in place for exploding, and toy paper pistol caps which contain less than twenty-five one-hundredths (25/100) grains of explosive compounds, cone, bottle, tube, and other type serpentine pop-off novelties, model rockets, wire sparklers, containing not over one hundred (100) grams of composition per item (sparklers containing chlorate or perchlorate salts may not exceed five (5) grams of composition per item), emergency flares, matches, trick matches and cigarette loads, the sale and use of which shall be permitted at all times. (as added by Ord. #10-10-01, Dec. 2010)

**7-409. Public displays -- permits -- regulation.** Nothing in this chapter shall be construed as applying to the shipping, sale, possession, and use of fireworks for public displays by holders of a permit for a public display to be conducted in accordance with the rules and regulations promulgated by the state fire marshal. Such items of fireworks which are to be used for public display only and which are otherwise prohibited for sale and use within the City of Cowan shall include display shells designed to be fired from mortars and display set pieces of fireworks classified by the regulation of the United States Department of Transportation as "Class B special fireworks" and shall not include such items of commercial fireworks as cherry bombs, tubular salutes, repeating bombs, aerial bombs and torpedoes. Public displays shall be performed only under competent supervision, and after the persons or organizations making such displays shall have received written approval from the Cowan Volunteer Fire Department, and applied for and received a permit for such displays issued by the state fire marshal. Applicants for permits for such public displays shall be made in writing and shall show that the proposed display is to be so located and supervised that it is not hazardous to property and that it shall not endanger human lives. Possession of special fireworks for re-sale to



holders of a permit for public fireworks display shall be confined to holders of a distributors permit only. (as added by Ord. #10-10-01, Dec. 2010)

**7-410. Regulations governing storing, locating or display of fireworks.** (1) Placing, storing, locating or displaying fireworks in any window where the sun may shine through glass onto the fireworks so displayed or to permit the presence of lighted cigars, cigarettes, or pipes within ten feet (10') of where the fireworks are offered for sale is hereby declared unlawful and prohibited. At all places where fireworks are stored or sold, there must be posted signs with the words "fireworks -- no smoking" in letters not less than four inches (4") high. No fireworks shall be sold at retail at any locations where paints, oils or varnishes are for sale or use, unless such paints, oils or varnishes are kept in their original consumer containers, nor where resin, turpentine, gasoline or any other flammable substance is stored or sold, if the storage creates an undue hazard to any person or property.

(2) All firework devices that are readily accessible to handling by consumers or purchasers must have their fuses protected in such a manner as to protect against accidental ignition of an item by spark, cigarette ash or other ignition source. Safety-type thread-wrapped and coated fuses shall be exempt from this provision. (as added by Ord. #10-10-01, Dec. 2010)

**7-411. Unlawful acts in the sale, handling or private use of fireworks.** (1) It is unlawful to:

(a) Offer for retail sale or to sell any fireworks to children under the age of sixteen (16) years (Tennessee Code Annotated, § 68-104-112) or to any intoxicated or irresponsible person;

(b) Explode or ignite fireworks within six hundred feet (600') of any church, hospital, asylum, public school or within two hundred feet (200') of where fireworks are stored, sold or offered for sale;

(c) Ignite or discharge any permissible articles of fireworks within or throw the same from a motor vehicle while within, nor shall any person place or throw any ignited article of fireworks into or at such a motor vehicle, or at or near any person or group of people.

(2) All items of fireworks which exceed the limits of D.O.T. Class C common fireworks as to explosive composition, such items being commonly referred to as "illegal ground salutes" designed to produce an audible effect, are expressly prohibited from shipment into, manufacture, possession, sale or use within the City of Cowan for any purpose. This subsection shall not affect display fireworks authorized by this chapter. (as added by Ord. #10-10-01, Dec. 2010)

**7-412. Seizure and destruction of fireworks.** (1) The Cowan Volunteer Fire Department shall seize as contraband any fireworks other than

"Class C common fireworks" or "special fireworks" for public displays which are sold, displayed, used or possessed in violation of this chapter.

(2) Before any seized fireworks may be destroyed:

(a) If the owner of such seized fireworks is known, the Cowan Fire Department shall give notice by registered mail or personal service to such owner, or the fire department's intention to destroy such seized materials. Such notice shall inform the owner of the owner's right to a hearing. Upon the request of the owner, the fire department shall conduct an appropriate contested case hearing concerning such destruction of fireworks in accordance with the Uniform Administrative Procedures Act, compiled in Tennessee Code Annotated, title 4, chapter 5.

(b) If the identity of the owner of any seized fireworks is not known to the Cowan Fire Department, the fire department personnel shall cause to be published, in a newspaper of general circulation in the county wherein the seizure was made, notice of such a seizure, and of the fire department's intention to destroy such fireworks. The notice shall be published once and if no person claims ownership of the fireworks within ten (10) days of the date of the publication, the Cowan Fire Department may proceed to destroy the fireworks. If the owner does claim the fireworks within the time specified, a hearing as set out in this subsection shall be held. (as added by Ord. #10-10-01, Dec. 2010)

**7-413. Penalty for violation.** Any individual, firm, partnership or corporation that violates any provision of this chapter, shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not more than fifty dollars (\$50.00). In addition, the Cowan Fire Department may refuse to issue another permit to the holder of a permit so convicted for a period not to exceed three (3) years. (as added by Ord. #10-10-01, Dec. 2010)

**7-414. Exceptions to application.** (1) Nothing in this chapter shall be construed as applying to the manufacture, storage, sale or use of signals necessary for the safe operation of railroads or other classes of public or private transportation or of illuminating devices for photographic use, nor as applying to the military or naval forces of the United States, or the State of Tennessee or to peace officers, nor as prohibiting the sale or use of blank cartridges for ceremonial, theatrical, or athletic events, nor as applying to the transportation, sale or use of fireworks solely for agricultural purposes, providing the purchaser first secures a written permit to purchase and use fireworks for agricultural purposes only from the state fire marshal, and after approval of the county agricultural agent of the county in which the fireworks are to be used and the fireworks must at all times be kept in possession of the farmer to whom the permit is issued. Such permits and fireworks shall not be transferable. Items sold for agricultural purposes shall be limited to those items that are legal for retail sale and use within the City of Cowan.

(2) Further exempt are fireworks and/or fireworks displays that might be other than the use of Class C common fireworks when used solely for a public exhibition of such items either when displayed or discharged.

(3) Such exhibitors of a public fireworks display for special events shall have prior approval by the Cowan City Council after application has been made and approved by the Cowan Fire Department.

(4) Items used in a special event fireworks display shall conform to, and be limited to, those guidelines and specifications as defined by the Cowan Fire Department. Such guidelines and specifications may be altered or be designed specifically for each special event at the discretion of the Cowan Fire Department. (as added by Ord. #10-10-01, Dec. 2010)

## TITLE 8

ALCOHOLIC BEVERAGES<sup>1</sup>

## CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.

## CHAPTER 1

INTOXICATING LIQUORS

## SECTION

- 8-101. Definition of "alcoholic beverages."  
8-102. Consumption of alcoholic beverages on premises.  
8-103. Privilege tax on retail sale of alcoholic beverages for consumption on the premises.  
8-104. Privilege tax to be paid to the city recorder.  
8-105. Concurrent sales of liquor by the drink and beer.  
8-106. Advertisement of alcoholic beverages.

8-101. Definition of "alcoholic beverages." As used in this chapter, unless the context indicates otherwise: "Alcoholic beverages" means and includes alcohol, spirits, liquor, wine, and every liquid containing alcohol, spirits, wine and capable of being consumed by a human being, other than patented medicine or beer, where the latter contains an alcoholic content of five percent (5%) by weight, or less.

8-102. Consumption of alcoholic beverages on premises. Tennessee Code Annotated, title 57, chapter 4, inclusive, is hereby adopted so as to be applicable to all sales of alcoholic beverages for on premises consumption which are regulated by the said code when such sales are conducted within the corporate limits of Cowan, Tennessee. It is the intent of the mayor and council that the said Tennessee Code Annotated, title 57, chapter 4, inclusive, shall be effective in Cowan, Tennessee, the same as if said code sections were copied herein verbatim.

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<sup>1</sup>State law reference

Tennessee Code Annotated, title 57.

Municipal code reference

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

8-103. Privilege tax on retail sale of alcoholic beverages for consumption on the premises. Pursuant to the authority contained in Tennessee Code Annotated, § 57-4-301, there is hereby levied an annual privilege tax (in the same amounts levied by Tennessee Code Annotated, title 57, chapter 4, § 301, for the City of Cowan General Fund to be paid as provided in this chapter) upon any person, firm corporation, joint stock company, syndicate, or association engaging in the business of selling at retail in the City of Cowan on alcoholic beverages for consumption on the premises where sold.

8-104. Privilege tax to be paid to the city recorder. Any person, firm, corporation, joint stock company, syndicate or association exercising the privilege of selling alcoholic beverages for consumption on the premises in the City of Cowan shall remit to the city recorder the appropriate tax described in § 8-103. Such payment shall be remitted by January 31<sup>st</sup>, each successive year. Any person, firm, corporation, joint stock company, syndicate, or association failing to make payment of the appropriate tax when due shall be subject to the penalty provided by law.

8-105. Concurrent sales of liquor by the drink and beer. Any person, firm, corporation, joint stock company, syndicate or association which has received a license to sell alcoholic beverages in the City of Cowan, pursuant to Tennessee Code Annotated, title 57, chapter 4, may qualify to receive a beer permit from the city. Approval of such a permit shall not be automatic.<sup>1</sup>

8-106. Advertisement of alcoholic beverages. All advertisement of the availability of liquor for sale by those licensed pursuant to Tennessee Code Annotated, title 57, chapter 4, shall be in accordance with the Rules and Regulations of the Tennessee Alcoholic Beverage Commission.

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<sup>1</sup>State ex rel. Amvets Post 27 v. Beer Board of the City of Jellico, 717 S.W.2d 878 (Tenn. 1986).

## CHAPTER 2

BEER<sup>1</sup>

## SECTION

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

8-201. Beer board established. The city council is hereby designated as the beer board for the City of Cowan and is authorized to regulate the sale of beer. (Ord. #03-03-01, May 2003)

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

8-203. Record of beer board proceedings to be kept. The recorder shall make a record of the proceedings of all meetings of the beer board. The

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<sup>1</sup>Municipal code references

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

Tax provisions: title 5.

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).

record shall be a public record and shall contain at least the following: The date of each meeting; the names of the board members present and absent; the names of the members introducing and seconding motions and resolutions, etc., before the board; a copy of each such motion or resolution presented; the vote of each member thereon; and the provisions of each beer permit issued by the board.

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

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

8-206. "Beer" defined. The term "beer" as used in this chapter shall mean and include all beers, ales, and other malt liquors having an alcoholic content of not more than five percent (5%) by weight.

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

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<sup>1</sup>State law reference  
Tennessee Code Annotated, § 57-5-106.

<sup>2</sup>State law reference  
Tennessee Code Annotated, § 57-5-103.

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

8-209. Beer permits shall be restrictive. All beer permits shall be restrictive as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. Beer permits for the retail sale of beer may be further restricted by the beer board so as to authorize sales only for off premises consumption. A single permit may be issued for on premise and off premise consumption. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit. It shall likewise be unlawful for him not to comply with any and all express restrictions or conditions which may be written into his permit by the beer board.

8-210. Interference with public health, safety, and morals prohibited. No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with schools, residences, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. In no event will a permit be issued authorizing the manufacture or storage of beer or the sale of beer within three hundred (300) feet of any school, residence, church or other such place of public gathering. The distances shall be measured in a straight line<sup>2</sup> from the nearest point on the property line upon which sits the building from which the beer will be manufactured, stored or sold to the nearest point on the property line of the school, residence, church or other place of public gathering.

8-211. Issuance of permits to persons convicted of certain crimes prohibited. No beer permit shall be issued to any person who has been

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 57-5-104(b).

<sup>2</sup>State law reference

See Watkins v. Naifeh, 635 S.W. 2d 104 (Tenn. 1982) and other cases cited therein which establish the straight line method of measurement.



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

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

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

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

(3) Hours of sale of beer shall be in compliance with the Tennessee Alcoholic Beverage Commission.

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

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

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

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

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

(9) Fail to provide and maintain separate sanitary toilet facilities for men and women.

8-213. Revocation of beer permits.<sup>1</sup> The beer board shall have the power to revoke any beer permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his application or of violating any of the provisions of this chapter. However, no beer permit shall be revoked until a public hearing is held by the board after reasonable notice to all the known parties in interest. Revocation proceedings may be initiated by the police chief or by any member of the beer board.

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<sup>1</sup>State law reference

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

8-214. Civil penalty in lieu of suspension.<sup>1</sup> The beer board may, at the time it imposes a revocation or suspension, offer a permit holder the alternative of paying a civil penalty not to exceed one thousand five hundred dollars (\$1,500.00) for each offense of making or permitting to be made any sales to minors or a civil penalty not to exceed one thousand dollars (\$1,000.00) for any other offense. If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn.

Payment of the civil penalty in lieu of suspension by a permit holder shall be an admission by the holder of the violation so charged and shall be paid to the exclusion of any other penalty that the city may impose.

8-215. Violations. Except as provided in § 8-215, any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense.

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<sup>1</sup>State law reference

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

**TITLE 9**

**BUSINESS, PEDDLERS, SOLICITORS, ETC.<sup>1</sup>**

**CHAPTER**

1. PEDDLERS, SOLICITORS, ETC.
2. CABLE TELEVISION.
3. YARD/GARAGE SALES.

**CHAPTER 1**

**PEDDLERS, SOLICITORS, ETC.**

**SECTION**

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

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

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

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

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<sup>1</sup>Municipal code references

Privilege taxes: title 5.

Trespass by peddlers, etc.: § 11-501.

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

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

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

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

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

(5) "Street barker" means any peddler who does business during recognized festival or parade days in the city and who limits his business to selling or offering to sell novelty items and similar goods in the area of the festival or parade.

(6) "Transient vendor"<sup>1</sup> means any person who brings into temporary premises and exhibits stocks of merchandise to the public for the purpose of selling or offering to sell the merchandise to the public. Transient vendor does not include any person selling goods by sample, brochure, or sales catalog for future delivery; or to sales resulting from the prior invitation to the seller by the owner or occupant of a residence. For purposes of this definition, "merchandise" means any consumer item that is or is represented to be new or not previously

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<sup>1</sup>State law reference

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

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

owned by a consumer, and "temporary premises" means any public or quasi-public place including a hotel, rooming house, storeroom, building or part of a building, tent, vacant lot, railroad car, or motor vehicle which is temporarily occupied for the purpose of exhibiting stocks of merchandise to the public. Premises are not temporary if the same person has conducted business at those premises for more than six (6) consecutive months or has occupied the premises as his or her permanent residence for more than six (6) consecutive months.

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

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

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

- (a) The complete name and permanent address of the business or organization the applicant represents;
- (b) A brief description of the type of business and the goods to be sold;
- (c) The dates for which the applicant intends to do business or make solicitations;
- (d) The names and permanent addresses of each person who will make sales or solicitations within the city;
- (e) The make, model, complete description, and license tag number and state of issue, of each vehicle to be used to make sales or solicitations, whether or not such vehicle is owned individually by the person making sales or solicitations, by the business or organization itself, or rented or borrowed from another business or person;
- (f) Tennessee State sales tax number, if applicable.

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

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

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

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

(1) Be permitted to set up and operate a booth or stand on any street or sidewalk, or in any other public area within the city;

(2) Stand or sit in or near the entrance to any dwelling or place of business, or in any other place which may disrupt or impede pedestrian or vehicular traffic;

(3) Offer to sell goods or services or solicit in vehicular traffic lanes, or operate a "road block" of any kind;

(4) Call attention to his business or merchandise or to his solicitation efforts by crying out, by blowing a horn, by ringing a bell, or creating other noise, except that the street barker shall be allowed to cry out to call attention to his business or merchandise during recognized parade or festival days of the city;

(5) Enter in or upon any premises or attempt to enter in or upon any premises wherein a sign or placard bearing the notice "Peddlers or Solicitors Prohibited," or similar language carrying the same meaning, is located.

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

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

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

(a) Any false statement, material omission, or untrue or misleading information which is contained in or left out of the application; or

(b) Any violation of this chapter.

(2) Suspension or revocation by the city council. The permit issued to any person or organization under this chapter may be suspended or revoked by the city council, after notice and hearing, for the same causes set out in subsection (1) above. Notice of the hearing for suspension or revocation of a permit shall be given by the city recorder in writing, setting forth specifically the grounds of complaint and the time and place of the hearing. Such notice shall be mailed to the permit holder at his last known address at least five (5) days prior to the date set for hearing, or it shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing.

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

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

**CHAPTER 2****CABLE TELEVISION****SECTION**

9-201. To be furnished under franchise.

**9-201. To be furnished under franchise.** Cable television service shall be furnished to the City of Cowan and its inhabitants under franchise granted to Comcast Cable Communications, Inc. by the City Council of the City of Cowan, Tennessee. The rights, powers, duties and obligations of the City of Cowan and its inhabitants are clearly stated in the franchise agreement executed by, and which shall be binding upon the parties concerned.<sup>1</sup>

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<sup>1</sup>For complete details relating to the cable television franchise agreement see Ord. #02-08-01 dated 12/5/02 in the office of the city recorder.



## CHAPTER 3

### YARD/GARAGE SALES

#### SECTION

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

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

(1) "Personal property" 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 purchased for resale or obtained on consignment or trucked in from other locations.

(2) "Yard/garage sales" shall mean and include all general sales, open to the public, conducted from or on any premises in any residential or nonresidential zone, as defined by the zoning ordinance, for the purpose of disposing of personal property including, but not limited to, all sales entitled "garage," "lawn," "yard," "attic," "porch," "room," "backyard," "patio," "flea market," or "rummage" sale. This definition does not include the operation of such businesses carried on in a nonresidential zone where the person conducting the sale does so on a regular day-today basis. (as added by Ord. #06-08-01, Aug. 2006)

**9-302. Property permitted to be sold.** It shall be unlawful for any person to sell or offer for sale, under authority granted by this chapter, property other than personal property. (as added by Ord. #06-08-01, Aug. 2006)

**9-303. Permit required.** No yard/garage sale shall be conducted unless and until the individuals desiring to conduct such sale obtain a permit therefor from the city recorder. Members of more than one (1) residence may join in obtaining a permit for a yard/garage sale to be conducted at the residence of one (1) of them. Permits may be obtained for any nonresidential location. (as added by Ord. #06-08-01, Aug. 2006)

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

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

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

(3) Issuance of permit. Upon the applicant complying with the terms of this chapter, the city recorder shall issue a permit. (as added by Ord. #06-08-01, Aug. 2006)

**9-305. Permit conditions.** The permit shall set forth and restrict the time and location of such yard/garage sale. No more than three (3) such permits may be issued to one (1) residential location, residence and/or family household during any calendar year. If members of more than one (1) residence join in requesting a permit, then such permit shall be considered as having been issued for each and all of such residences. No more than three (3) permits may be issued for any nonresidential location during any calendar year. (as added by Ord. #06-08-01, Aug. 2006)

**9-306. Hours of operation.** Sales shall be limited in time to no more than 7:00 A.M. to 6:00 P.M. on three (3) consecutive days. (as added by Ord. #06-08-01, Aug. 2006)

**9-307. Display of sale property.** Personal property offered for sale may be displayed within the residence, in a garage, carport, and/or in a front, side or rear yard, but only in such areas. No personal property offered for sale at a yard/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. #06-08-01, Aug. 2006)

**9-308. Display of permit.** Any permit in possession of the holder or holders of a yard/garage sale shall be posted on the premises in a conspicuous

place so as to be seen by the public, or any city official. (as added by Ord. #06-08-01, Aug. 2006)

**9-309. Advertising/signs permitted.** (1) Only the following specified signs may be displayed in relation to a pending yard/garage sale:

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

(b) Directional signs. Two (2) signs of not more than two (2) square feet are permitted, provided that the premises on which the yard/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.

(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 at the close of the yard/garage sale activities. (as added by Ord. #06-08-01, Aug. 2006)

**9-310. Persons exempted from chapter.** The provisions of this chapter shall not apply to or affect the following:

(1) Persons selling goods pursuant to an order of process or 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 in the place of business wherein such sale would be permitted by zoning regulations of the city, or under the protection of the nonconforming use section thereof, or any other sale conducted by a manufacturer, dealer or vendor in which sale would be conducted from properly zoned premises, and not otherwise prohibited by other ordinances.

(4) Any church or non-profit organization conducting a yard/garage sale for the purpose of fund raising. (as added by Ord. #06-08-01, Aug. 2006)

**9-311. Violation and penalty.** Any person found guilty of violating the terms of this chapter shall be subject to a penalty of twenty-five dollars (\$25.00) for each offense, up to two (2) offenses. Each subsequent offense shall be subject to a penalty of fifty dollars (\$50.00). (as added by Ord. #06-08-01, Aug. 2006)

## TITLE 10

ANIMAL CONTROL

## CHAPTER

1. IN GENERAL.
2. DOGS AND CATS.

## CHAPTER 1

IN GENERAL

## SECTION

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

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

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

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

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

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

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

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

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

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

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

The pound keeper shall collect from each person claiming an impounded animal or fowl reasonable fees, in accordance with a schedule approved by the city council, to cover the costs of impoundment and maintenance.

10-107. Violation and penalty. Any violation of any section of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day the violation shall continue shall constitute a separate offense.

## CHAPTER 2

DOGS AND CATS

## SECTION

- 10-201. Rabies vaccination and registration required.
- 10-202. Dogs to wear tags.
- 10-203. Running at large prohibited.
- 10-204. Vicious dogs to be securely restrained.
- 10-205. Noisy dogs prohibited.
- 10-206. Confinement of dogs suspected of being rabid.
- 10-207. Seizure and disposition of dogs.
- 10-208. Destruction of vicious or infected dogs running at large.
- 10-209. Violation and penalty.

10-201. Rabies vaccination and registration required. It shall be unlawful for any person to own, keep, or harbor any dog or cat without having the same duly vaccinated against rabies and registered in accordance with the provisions of the "Tennessee Anti-Rabies Law" (Tennessee Code Annotated, §§ 68-8-101 through 68-8-114) or other applicable law.

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

10-203. Running at large prohibited.<sup>1</sup> It shall be unlawful for any person knowingly to permit any dog owned by him or under his control to run at large within the corporate limits.

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

10-204. Vicious dogs to be securely restrained. It shall be unlawful for any person to own or keep any dog known to be vicious or dangerous unless such dog is so confined and/or otherwise securely restrained as to provide reasonably for the protection of other animals and persons. A violation of this section shall subject the offender to a penalty under the general penalty provision of this code.

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<sup>1</sup>State law reference

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

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

10-206. Confinement of dogs suspected of being rabid. If any dog has bitten any person or is suspected of having bitten any person or is for any reason suspected of being infected with rabies, the chief of police or any other properly designated officer or official may cause such dog to be confined or isolated for such time as he deems reasonably necessary to determine if such dog is rabid.

10-207. Seizure and disposition of dogs. Any dog found running at large may be seized by any police officer or other properly designated officer or official and placed in a pound provided or designated by the city council. If the dog is wearing a tag the owner shall be notified in person, by telephone, or by a postcard addressed to his last-known mailing address to appear within three (3) days and redeem his dog by paying a reasonable pound fee, in accordance with a schedule approved by the city council, or the dog will be sold or humanely destroyed. If the dog is not wearing a tag it shall be sold or humanely destroyed unless legally claimed by the owner within three (3) days. No dog shall be released in any event from the pound unless or until such dog has been vaccinated and had a tag evidencing such vaccination placed on its collar.

10-208. Destruction of vicious or infected dogs and cats running at large. When, because of its viciousness or apparent infection with rabies, a dog found running at large cannot be safely impounded it may be summarily destroyed by any policeman or other properly designated officer.<sup>1</sup>

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

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<sup>1</sup>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<sup>1</sup>

## CHAPTER

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

## CHAPTER 1

ALCOHOL<sup>2</sup>

## SECTION

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

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

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

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<sup>1</sup>Municipal code references

Animal control: title 10.

Housing and utility codes: title 12.

Fireworks and explosives: title 7.

Traffic offenses: title 15.

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

<sup>2</sup>Municipal code reference

Sale of alcoholic beverages, including beer: title 8.

State law reference

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



11-103. Violations and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code.

## CHAPTER 2

FORTUNE TELLING, ETC.

## SECTION

11-201. Fortune telling, etc.

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

## CHAPTER 3

OFFENSES AGAINST THE PEACE AND QUIET

## SECTION

11-301. Disturbing the peace.

11-302. Anti-noise regulations.

11-303. Violation and penalty.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) 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) City vehicles. Any vehicle of the city 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 city, 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 city council. Hours for the use of an amplified or public address system will be designated in the permit so issued and the use of such systems shall be restricted to the hours so designated in the permit.

11-303. Violation and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code.

## CHAPTER 4

FIREARMS, WEAPONS AND MISSILES

## SECTION

11-401. Air rifles, etc.

11-402. Throwing missiles.

11-403. Discharge of firearms.

11-401. Air rifles, etc. It shall be unlawful for any person in the city to discharge any air gun, air pistol, air rifle, "BB" gun, or sling shot capable of discharging a bullet or pellet, made of metal, plastic or any other kind of material, whether propelled by spring, compressed air, expanding gas, explosive, or other force-producing means or method. A violation of this section shall subject the offender to a penalty of up to fifty dollars (\$50.00) for each offense.

11-402. Throwing missiles. It shall be unlawful for any person to maliciously throw any stone, snowball, bottle, or any other missile upon or at any vehicle, building, tree, or other public or private property or upon or at any person. A violation of this section shall subject the offender to a penalty of up to fifty dollars (\$50.00) for each offense.

11-403. Discharge of firearms. It shall be unlawful for any unauthorized person to discharge a firearm within the corporate limits. A violation of this section shall subject the offender to a penalty under the general penalty provision of this code.

## CHAPTER 5

TRESPASSING AND INTERFERENCE WITH TRAFFIC

## SECTION

11-501. Trespassing.

11-502. Interference with traffic.

11-503. Violation and penalty.

11-501. Trespassing. (1) On premises open to the public. (a) It shall be unlawful for any person to defy a lawful order, personally communicated to him by the owner or other authorized person, not to enter or remain upon the premises of another, including premises which are at the time open to the public.

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

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

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

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

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

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

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<sup>1</sup>Municipal code reference

Provisions governing peddlers: title 9, chapter 1.

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



## CHAPTER 6

MISCELLANEOUS

## SECTION

11-601. Abandoned refrigerators, etc.

11-602. Caves, wells, cisterns, etc.

11-603. Posting notices, etc.

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

11-602. Caves, wells, cisterns, etc. It shall be unlawful for any person to permit to be maintained on property owned or occupied by him any cave, well, cistern, or other such opening in the ground which is dangerous to life and limb without an adequate cover or safeguard. A violation of this section shall subject the offender to a penalty under the general penalty provision of this code.

11-603. Posting notices, etc. No person shall paint, make or fasten, in any way, any show-card, poster, or other advertising device or sign upon any public or private property unless legally authorized to do so. A violation of this section shall subject the offender to a penalty under the general penalty provision of this code. Each posting of such unauthorized notice shall constitute a separate offense.

**TITLE 12**

**BUILDING, UTILITY, ETC. CODES**

**CHAPTER**

1. INTERNATIONAL BUILDING CODE.
2. PLUMBING CODE.
3. ONE AND TWO FAMILY DWELLING CODE.
4. INTERNATIONAL ENERGY CONSERVATION CODE.
5. INTERNATIONAL PROPERTY MAINTENANCE CODE.
6. INTERNATIONAL EXISTING BUILDING CODE.

**CHAPTER 1**

**INTERNATIONAL BUILDING CODE**

**SECTION**

- 12-101. International building code adopted.
- 12-102. Modifications.
- 12-103. Available in recorder's office.
- 12-104. Violations and penalty.

**12-101. International building code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating the construction, alteration, repair, use, occupancy, location, maintenance, removal, and demolition of every building or structure or any appurtenance connected or attached to any building or structure, the International Building Code,<sup>1</sup> 2006 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the building code. (as amended by Ord. #11-06-01, Aug. 2011)

**12-102. Modifications. Definitions.** Whenever in the international building code when reference is made to the duties of a certain official named therein, that designated official of the City of Cowan 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 the international building code are concerned.

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

**12-103. Available in recorder's office.** Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the international building code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. Administrative regulations adopting amendments to the international building code will be placed on file when they are published by the building inspector, and at least fifteen (15) days before their effective date.

**12-104. Violations and penalty.** It shall be unlawful for any person to violate or fail to comply with any provision of the international building code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

## CHAPTER 2

### PLUMBING CODE<sup>1</sup>

#### SECTION

- 12-201. Plumbing code adopted.
- 12-202. Modifications.
- 12-203. Available in recorder's office.
- 12-204. Violations and penalty.

**12-201. Plumbing code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506 and for the purpose of regulating plumbing installations, including alterations, repairs, equipment, appliances, fixtures, fittings, and the appurtenances thereto, within or without the city, when such plumbing is or is to be connected with the city water or sewerage system, the International Plumbing Code,<sup>2</sup> 2006 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the plumbing code. (as amended by Ord. #11-06-01, Aug. 2011)

**12-202. Modifications.** (1) Definitions. Wherever the international plumbing code refers to the "Chief Appointing Authority," the "Administrative Authority," or the "Governing Authority," it shall be deemed to be a reference to the city council.

Wherever "City Engineer," "Engineering Department," "Plumbing Official," or "Inspector" is named or referred to, it shall mean the person appointed or designated by the city council to administer and enforce the provisions of the international plumbing code.

(2) Permit fees. The schedule of permit fees as recommended in "Appendix H" of the plumbing code is hereby adopted.

**12-203. Available in recorder's office.** Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502 one (1) copy of the plumbing code has

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<sup>1</sup>Municipal code references

Cross connections: title 18.

Street excavations: title 16.

Wastewater treatment: title 18.

Water and sewer system administration: title 18.

<sup>2</sup>Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

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

**12-204. Violations and penalty.** It shall be unlawful for any person to violate or fail to comply with any provision of the plumbing code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

**CHAPTER 3**

**ONE AND TWO FAMILY DWELLING CODE**

**SECTION**

12-301. One- and two-family dwelling code adopted.

12-302. Modifications.

12-303. Available in recorder's office.

12-304. Violations.

**12-301. One- and two-family dwelling code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506 and for the purpose of regulating the fabrication, erection, construction, enlargement, alterations, repair, location, and use of detached one and two family dwellings and their appurtenances and accessory structures, the International Residential Code for One- and Two-Family Dwellings,<sup>1</sup> 2006 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the dwelling code. (as amended by Ord. #11-06-01, Aug. 2011)

**12-302. Modifications.** Whenever the words "Building Official" are used in the dwelling code, they shall refer to the person designated by the city council to enforce the dwelling code.

**12-303. Available in recorder's office.** Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the dwelling code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

**12-304. Violations.** It shall be unlawful for any person to violate or fail to comply with any provision of the dwelling code as herein adopted by reference and modified.

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

## CHAPTER 4

### INTERNATIONAL ENERGY CONSERVATION CODE<sup>1</sup>

#### SECTION

12-401. International energy conservation code adopted.

12-402. Available in recorder's office.

12-403. Violations and penalty.

**12-401. International energy conservation 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 International Energy Conservation Code,<sup>2</sup> 2006 edition, as prepared and maintained by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the energy code. (as amended by Ord. #11-06-01, Aug. 2011)

**12-402. 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 been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

**12-403. Violations 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

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 13-19-106 requires Tennessee cities either to adopt the Model Energy Code, 1992 edition, the International Energy Conservation Code, 2000 edition with 2002 amendments, 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.

<sup>2</sup>Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.



**CHAPTER 5****INTERNATIONAL PROPERTY MAINTENANCE CODE****SECTION**

12-501. International property maintenance code adopted.

12-502. Modifications.

12-503. Available in recorder's office.

12-504. Violations and penalty.

**12-501. International property maintenance code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of providing minimum requirements and standards for premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance, the International Property Maintenance Code,<sup>1</sup> 2006 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the international property maintenance code. (as amended by Ord. #11-06-01, Aug. 2011)

**12-502. Modifications.** Whenever in the international property maintenance code when reference is made to the duties of a certain official named therein, that designated official of the City of Cowan 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 the international property maintenance code are concerned.

**12-503. Available in recorder's office.** Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the international property maintenance code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. Administrative regulations adopting amendments to the international property maintenance code will be placed on file when they are published by the building inspector, and at least fifteen (15) days before their effective date.

**12-504. Violations and penalty.** It shall be unlawful for any person to violate or fail to comply with any provision of the international property maintenance code as herein adopted by reference and modified. The violation

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

of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

**CHAPTER 6**

**EXISTING BUILDING CODE**

**SECTION**

12-601. International existing building code adopted.

**12-601. International existing building code adopted.** Pursuant to authority granted by Tennessee Code Annotated §§ 6-54-501 through 6-54-506, the International Existing Building Code,<sup>1</sup> 2006 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the existing building code. (as added by Ord. #11-06-01, Aug. 2011)

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

## TITLE 13

PROPERTY MAINTENANCE REGULATIONS<sup>1</sup>

## CHAPTER

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

## CHAPTER 1

MISCELLANEOUS

## SECTION

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

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

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.

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

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<sup>1</sup>Municipal code references

Animal control: title 10.

Littering streets, etc.: § 16-107.

Wastewater treatment: title 18, chapter 2.

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

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

(3) Designation of public officer or department. The city council shall designate an appropriate department or person to enforce the provisions of this section.

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

(a) A brief statement that the owner is in violation of § 13-104 of the City of Cowan, 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

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<sup>1</sup>Municipal code reference

§ 13-103 applies to cases where the city wishes to prosecute the offender in city court. § 13-104 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.

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

(5) Clean-up at property owner's expense. If the property owner of record fails or refuses to remedy the condition within ten (10) days after receiving the notice (twenty (20) days if the owner is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), the department or person designated by the city council to enforce the provisions of this section shall immediately cause the condition to be remedied or removed at a cost in conformity with reasonable standards, and the cost thereof shall be assessed against the owner of the property. Upon the filing of the notice with the office of the register of deeds in Franklin County, the costs shall be a lien on the property in favor of the municipality, second only to liens of the state, county, and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be placed on the tax rolls of the municipality as a lien and shall be added to property tax bills to be collected at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes.

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

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

(8) Supplemental nature of this section. The provisions of this section are in addition and supplemental to, and not in substitution for, any other provision in the municipal charter, this municipal code of ordinances or other applicable law which permits the 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, weeds, underbrush and/or the accumulation of the debris, trash, litter, or garbage or any combination of the preceding elements, under its charter, any other provisions of this municipal code of ordinances or any other applicable law.

13-105. Dead animals. Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify

the city recorder and dispose of such animal in such manner as the city recorder shall direct.

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

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

## CHAPTER 2

SLUM CLEARANCE<sup>1</sup>

## SECTION

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

13-201. Findings of board. Pursuant to Tennessee Code Annotated, § 13-21-101, et seq., the city council finds that there exists in the city 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 city.

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

(2) "Governing body" shall mean the city council charged with governing the city.

(3) "Municipality" shall mean the City of Cowan, Tennessee, and the areas encompassed within existing city 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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<sup>1</sup>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 city or state relating to health, fire, building regulations, or other activities concerning structures in the city.

(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.

13-203. "Public officer" designated; powers. There is hereby designated and appointed a "public officer," to be the building inspector of the city, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the building inspector.

13-204. Initiation of proceedings; hearings. Whenever a petition is filed with the public officer by a public authority or by at least five (5) residents of the city 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.

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

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

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

13-208. Lien for expenses; sale of salvaged materials; other powers not limited. The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer shall be assessed against the owner of the property, and shall upon the filing of the notice with the office of the register of deeds of Franklin County, be a lien on the property in favor of the municipality, second only to liens of the state, county and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be collected by the municipal tax collector or county trustee at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes. In addition, the municipality may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The municipality may bring one (1) action for debt against more than one (1) or all of the owners of properties against whom said costs have been assessed and the fact that multiple owners have

been joinder 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 Franklin 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 City of Cowan to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise.

13-209. Basis for a finding of unfitness. The public officer defined herein shall have the power and may determine that a structure is unfit for human occupation and use if he finds that conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants or users of such structure, the occupants or users of neighboring structures or other residents of the City of Cowan. 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 uncleanness.

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

13-211. Enjoining enforcement of orders. Any person affected by an order issued by the public officer served pursuant to this chapter may file a bill in chancery court for an injunction restraining the public officer from carrying out the provisions of the order, and the court may, upon the filing of such suit, issue a temporary injunction restraining the public officer pending the final disposition of the cause; provided, however, that within sixty (60) days after the posting and service of the order of the public officer, such person shall file such bill in the court.

The remedy provided herein shall be the exclusive remedy and no person affected by an order of the public officer shall be entitled to recover any damages for action taken pursuant to any order of the public officer, or because of noncompliance by such person with any order of the public officer.

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

- (1) To investigate conditions of the structures in the city 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 purpose 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.

13-213. Powers conferred are supplemental. This chapter shall not be construed to abrogate or impair the powers of the city 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.

13-214. Structures unfit for human habitation deemed unlawful. It shall be unlawful for any owner of record to create, maintain or permit to be maintained in the city 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 city.

Violations of this section shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

## CHAPTER 3

JUNKYARDS<sup>1</sup>

## SECTION

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

13-301. Definitions. (1) "Junk" shall mean old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled, or wrecked automobiles, trucks, vehicles of all kinds, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.

(2) "Junkyard" shall mean an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard. This definition includes scrap metal processors, used auto parts yards, yards providing temporary storage of automobile bodies or parts awaiting disposal as a normal part of the business operation when the business will continually have like materials located on the premises, garbage dumps, sanitary landfills, and recycling centers.

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

(4) "Recycling center" means an establishment, place of business, facility or building which is maintained, operated, or used for the storing, keeping, buying, or selling of newspaper or used food or beverage containers or plastic containers for the purpose of converting such items into a usable product.

(5) "Screening" means the use of plantings, fencing, natural objects, and other appropriate means which screen any deposit of junk so that the junk is not visible from the highways and streets of the city.

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

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<sup>1</sup>Municipal code reference

Refuse and trash disposal: title 17.

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

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

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

(3) Architectural barriers. The utilization of:

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

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

(c) Walls of masonry, including plain or ornamented concrete block, brick, stone, or other suitable materials.

(4) Natural objects. Naturally occurring rock outcrops, woods, earth mounds, etc., may be utilized for screening or used in conjunction with fences, plantings, or other appropriate objects to form an effective screen.

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

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

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

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

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

13-305. Maintenance of screens. The owner or operator of the junkyard shall be responsible for maintaining the screen in good repair to insure the continuous concealment of the junkyard. Damaged or dilapidated screens, including dead or diseased plantings, which permit a view of the junk within shall render the junkyard visible and shall be in violation of this code and shall be replaced as required by the city.

If not replaced within sixty (60) days the city shall replace said screening and shall require payment upon demand. Failure to pay in full shall result in

the fee plus interest to be assessed to the property and shall be combined with the subsequent taxation of the property by the city.

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

13-307. Non-conforming junkyards. Those junkyards within the city and lawfully in existence prior to the enactment of this code, which do not conform to the provisions of the code, shall be considered as "non-conforming." Such junkyards shall be subject to the following conditions, any violation of which shall terminate the non-conforming status:

- (1) The junkyard must continue to be lawfully maintained.
- (2) There must be existing property rights in the junk or junkyard.
- (3) Abandoned junkyards shall no longer be lawful.
- (4) The location of the junkyard may not be changed for any reason.

If the location is changed, the junkyard shall be treated as a new establishment at a new location and shall conform to the laws of the city.

- (5) The junkyard may not be extended or enlarged.

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

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

(2) Each application for an original or renewal permit shall be accompanied by a fee of fifty dollars (\$50.00) which is not subject to either proration or refund.

(3) All applications for an original or renewal permit shall be made on a form prescribed by the city.

(4) Permits shall be issued only to those junkyards that are in compliance with these rules.

(5) A permit is valid only while held by the permittee and for the location for which it is issued.

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

## TITLE 14

ZONING AND LAND USE CONTROL

## CHAPTER

1. MUNICIPAL PLANNING COMMISSION.
2. ZONING ORDINANCE.
3. MOBILE HOMES (TRAILERS).

## CHAPTER 1

MUNICIPAL PLANNING COMMISSION

## SECTION

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

14-101. Creation and membership. Pursuant to the provisions of Tennessee Code Annotated, § 13-4-101 there is hereby created a municipal planning commission, hereinafter referred to as the planning commission. The planning commission shall consist of five (5) members; two (2) of these shall be the mayor and another member of the city council selected by the city council; 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 city council shall run concurrently with their terms of office. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor, who shall also have the authority to remove any appointive member at his will and pleasure.

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.

14-103. Additional powers<sup>1</sup>. Having been designated as a regional planning commission, the municipal planning commission shall have the

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<sup>1</sup>State law reference.

Tennessee Code Annotated, § 13-3-102.



additional powers granted by, and shall otherwise be governed by the provisions of the state law relating to regional planning commissions.

## CHAPTER 2

ZONING ORDINANCE

## SECTION

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

14-202. Violations and penalty.

14-201. Land use to be governed by zoning ordinance. Land use within the City of Cowan shall be governed by Ordinance #27, titled "Zoning Ordinance, Cowan, Tennessee," and any amendments thereto.<sup>1</sup>

14-202. Violations and penalty. Violations of the zoning ordinance shall subject the offender to a penalty under the general penalty provisions of this code. Each day a violation is allowed to continue shall constitute a separate offense.

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<sup>1</sup>Ordinance #27, and any amendments thereto, are published as separate documents and are of record in the office of the city recorder.

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

## CHAPTER 3

MOBILE HOMES (TRAILERS)

## SECTION

- 14-301. Definitions.
- 14-302. Location of mobile homes.
- 14-303. State tax sticker required.
- 14-304. Permit for mobile home park.
- 14-305. Inspections by city building inspector.
- 14-306. Location and planning.
- 14-307. Minimum size of mobile home park.
- 14-308. Minimum number of spaces.
- 14-309. Minimum mobile home space and spacing of mobile homes.
- 14-310. Water supply.
- 14-311. Sewage disposal.
- 14-312. Refuse.
- 14-313. Electricity.
- 14-314. Streets.
- 14-315. Parking spaces.
- 14-316. Buffer strip.
- 14-317. License for mobile home parks.
- 14-318. License for individual mobile homes.
- 14-319. License fees for mobile home parks.
- 14-320. License fees for individual mobile homes.
- 14-321. Application for license.
- 14-322. Enforcement.
- 14-323. Board of appeals.
- 14-324. Appeals from board of appeals.
- 14-325. Violation and penalty.

14-301. Definitions. (1) "Health officer." The director of the city, county or district health department having jurisdiction over the community health in a specific area, or his duly authorized representative.

(2) "Mobile home." A detached single family dwelling unit with any or all of the following characteristics:

(a) Designed for a long-term occupancy, and containing sleeping accommodations, 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 a flatbed or other trailers or detachable wheels.

(c) Arriving at the site where it is to be occupied as a complete dwelling including major appliances and furniture, and ready for

occupancy except for minor and incidental unpacking and assembly operations, connection to utilities and the like.

(3) "Mobile home park (trailer court)." The term mobile home park shall mean any plot of ground on which two (2) or more mobile homes, occupied for dwelling or sleeping purposes are located.

(4) "Mobile home space." The term shall mean a plot of ground within a mobile home park designated for the accommodation of one (1) mobile home.

(5) "Permit (license)." The permit required for trailer parks and single mobile homes. Fees charged under the license requirement are for inspection and the administration of this chapter.

14-302. State tax sticker required. No mobile home shall be used, placed, stored or serviced by utilities within any mobile home park in the city unless there is posted near the door of the mobile home a valid Tennessee State Tax Sticker.

14-303. Permit for mobile home park. No place or site within the city shall be established or maintained by any person, group of persons, or corporation as a mobile home park unless he holds a valid permit issued by the city building inspector in the names of such person or persons for the specific mobile home park. The city building inspector is authorized to issue, suspend, or revoke permits in accordance with the provisions of this chapter.

14-304. Inspections by city building inspector. The city building inspector is hereby authorized and directed to make inspections to determine the condition of mobile home parks, in order that he may perform his duty of safeguarding the health and safety of occupants of mobile home parks and of the general public. The city building inspector shall have the power to enter at reasonable times upon any private or public property for the purpose of inspecting and investigating conditions relating to the enforcement of this chapter.

14-305. Location and planning. The mobile home park shall be located on a well-drained site and shall be so located that its drainage will not endanger any water supply and shall be in conformity with a plan approved by the city planning commission and city building inspector. The city planning commission and building inspector may promulgate regulations for mobile home park location and plan approval, which shall provide for adequate space, lighting, drainage, sanitary facilities, safety features, and service buildings as may be necessary to protect the public health, prevent nuisances, and provide for the convenience and welfare of the mobile home park occupants.

14-306. Minimum size of mobile home park. The tract of land for the mobile home park shall comprise an area of not less than two (2) acres. The

tract of land shall consist of a single plat so dimensioned and related as to facilitate efficient design and management.

14-307. Minimum number of spaces. Minimum number of spaces completed and ready for occupancy before first occupancy is ten (10).

14-308. Minimum mobile homes space and spacing of mobile homes. Each mobile home space shall be adequate for the type of facility occupying the same. Mobile homes shall be parked on each space so that there will be at least fifteen (15) feet of open space between mobile homes or any attachment such as a garage or porch,<sup>1</sup> and at least ten (10) feet end to end spacing between trailers and any building or structure, twenty (20) feet between any trailer and property line and twenty-five (25) feet from the right-of-way of any public street or highway.

The individual plot sizes for mobile home spaces shall be determined as follows:

- (1) Minimum lot area of two thousand four hundred (2,400) square feet;
- (2) Minimum depth with end parking of an automobile shall be equal to the length of the mobile home plus thirty (30) feet;
- (3) Minimum depth with side or street parking shall be equal to the length of mobile home plus fifteen (15) feet; and
- (4) In no case shall be minimum width be less than forty (40) feet and the minimum depth less than sixty (60) feet.

14-309. Water supply. Where a public water supply is available, it shall be used exclusively. The development of an independent water supply to serve the mobile home park shall be made only after express approval has been granted by the county health officer. In those instances where an independent system is approved, the water shall be from a supply properly located, protected, and operated, and shall be adequate in quantity and approved in quality. Samples of water for bacteriological examination shall be taken before the initial approval of the physical structure and thereafter at least every four (4) months and when any repair or alteration of the water supply system has been made. If a positive sample is obtained, it will be the responsibility of the trailer court operator to provide such treatment as is deemed necessary to maintain a safe, potable water supply. Water shall be furnished at the minimum rate of one hundred twenty-five (125) gallons per day per mobile home space. An additional

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<sup>1</sup>If the construction of additional rooms or covered areas is to be allowed beside the mobile homes, the mobile homes spaces shall be made wider to accommodate such construction in order to maintain the required fifteen (15) feet of open space.

water service connection shall be provided for each mobile home space, with meter for each individual trailer.

14-310. Sewage disposal. An adequate sewage disposal system must be provided and must be approved by the health officer. However, sewage shall be disposed of into and through the public sewage system where there is an available sewer, as the term is defined in § 18-203 of this code. In the event there is no available sewer, sewage shall be disposed of into and through a private domestic wastewater system which meets the requirements of § 18-204.

Each mobile home space shall be equipped with at least a four (4) inch sewer connection. All sewer lines shall be laid in trenches separated at least ten (10) feet horizontally from any drinking water supply line.

14-311. Refuse. The storage, collection and disposal of refuse, in the park shall be so managed as to create no health hazards. All refuse shall be stored in fly proof, water tight and rodent proof containers. Satisfactory container racks or holders shall be provided. Garbage shall be collected and disposed of in an approved manner at least once per week.

14-312. Electricity. An electrical outlet supplying at least two hundred twenty (220) volts shall be provided for each mobile home space and shall be weather proof and accessible to the parked mobile home. All electrical installations shall be in compliance with the Standard National Electrical Code and revised Tennessee Department of Insurance and Banking Regulations, entitled "Regulations Relating to Electrical Installations in the State of Tennessee," and shall satisfy all requirements of the local electric service organization.

14-313. Streets. Widths of various streets within mobile home parks shall be:

- (1) One-way, with no on-street parking . . . . . 11 ft.
- (2) One-way, with parallel parking on one side only . . . . . 18 ft.
- (3) One-way, with parallel parking on both sides . . . . . 26 ft.
- (4) Two-way, with no on-street parking . . . . . 20 ft.
- (5) Two-way, with parallel parking on one side only . . . . . 28 ft.
- (6) Two-way, with parallel parking on both sides . . . . . 36 ft.

Streets shall have a compacted gravel base and a prime seal treatment to meet requirement of the Tennessee State Highway Department.

14-314. Parking spaces. Car parking spaces shall be provided in sufficient number to meet the needs of the occupants of the property and their guests without interference with normal movement of traffic. Such facilities shall be provided at the rate of at least one (1) car space for each mobile home lot plus an additional car space for each four (4) lots to provide for guest

parking, for two (2) car tenants and for delivery and service vehicles. Car parking spaces shall be located for convenient access to the mobile home space. Where practical, one (1) car space shall be located on each lot and the remainder located in adjacent parking bays. The size of the individual parking space shall have a minimum width of not less than ten (10) feet and a length of not less than twenty (20) feet. The parking spaces shall be located so access can be gained only from internal streets of the mobile home park.

14-315. Buffer strip. An evergreen buffer strip shall be planted along those boundaries of the mobile home court that are adjacent to development.

14-316. License for mobile home parks. It shall be unlawful for any person or persons to maintain or operate within the corporate limits of the city, a mobile home park unless such person or persons shall first obtain a license thereof.

14-317. License for individual mobile homes. It shall be unlawful for any person to maintain an individual mobile home as a dwelling unless a license has been obtained thereof. It shall be the responsibility of the owner of the mobile home to secure the license.

14-318. License fees for mobile home parks. The annual license fee for a mobile home park shall be twenty-five dollars (\$25.00).

14-319. License fees for individual mobile homes. The annual license fee for each mobile home shall be ten dollars (\$10.00). The fee for transfer of the license because of change of ownership or occupancy shall be five dollars (\$5.00).

14-320. Application for license. (1) Mobile home parks. Application for a mobile home park shall be filed with and issued by the city building inspector subject to the planning commission's approval of the mobile home park plan. Application shall be in writing and signed by the applicant and shall be accompanied with a plan of the proposed mobile home park. The plan shall contain the following information and conform to the following requirements:

- (a) The plan shall be clearly and legibly drawn at a scale not smaller than one hundred (100) feet to one (1) inch;
- (b) Name and address of owner of record;
- (c) Proposed name of park;
- (d) North point and graphic scale and date;
- (e) Vicinity map showing location and acreage of mobile home park;
- (f) Exact boundary lines of the tract by bearing and distance;
- (g) Names of owners or record of adjoining land;

(h) Existing streets, utilities, easements, and water courses on and adjacent to the tract;

(i) Proposed design including streets, proposed street names, lot lines with approximate dimensions, easements, land to be reserved or dedicated for public uses, and any land to be used for purposes other than mobile home spaces;

(j) Provisions for water supply, sewerage and drainage;

(k) Such information as may be required by the city to enable it to determine if the proposed park will comply with legal requirements; and

(l) The applications and all accompanying plans and specifications shall be filed in triplicate.

(2) Individual mobile homes. Application for individual mobile home licenses shall be filed with and issued by the city building inspector. Applications shall be in writing and signed by the applicant. The application shall contain the following:

(a) The name of the applicant and all people who are to reside in the mobile home;

(b) The location and description of the mobile home, make, model, and year;

(c) The state license number;

(d) Further information as may be required by the city to enable it to determine if the mobile home and site will comply with legal requirements; and

(e) The application shall be filed in triplicate.

14-321. Enforcement. It shall be the duty of the county health officer and city building inspector to enforce provisions of this chapter.

14-322. Board of appeals. The Cowan Municipal--Regional Planning Commission shall serve as the board of appeals and shall be guided by procedures and powers compatible with state law.

Any party aggrieved because of an alleged error in any order, requirement, decision or determination made by the building inspector in the enforcement of this chapter, may appeal for and receive a hearing by the Cowan Municipal--Regional Planning Commission for an interpretation of pertinent chapter provisions. In exercising this power of interpretation of this chapter, the Cowan Municipal--Regional Planning Commission may, in conformity with the provisions of this chapter, reverse or affirm any order, requirement, decision or determination made by the building inspector.

14-323. Appeals from board of appeals. Any person or persons or any board, taxpayer, department, or bureau of the city aggrieved by any decision of the Cowan Municipal--Regional Planning Commission may seek review by a



court of record of such decision in the manner provided by the laws of the State of Tennessee.

14-324. Violation and penalty. Any person or corporation who violates the provisions of the chapter or the rules and regulations adopted pursuant thereto, or fails to perform the reasonable requirements specified by the city building inspector or county health officer after receipt of thirty (30) days written notice of such requirements, shall be subject to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

## TITLE 15

MOTOR VEHICLES, TRAFFIC AND PARKING<sup>1</sup>

## CHAPTER

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

## CHAPTER 1

MISCELLANEOUS<sup>2</sup>

## SECTION

- 15-101. Motor vehicle requirements.
- 15-102. Driving on streets closed for repairs, etc.
- 15-103. Reckless driving.
- 15-104. One-way streets.
- 15-105. Unlaned streets.
- 15-106. Laned streets.
- 15-107. Yellow lines.
- 15-108. Miscellaneous traffic-control signs, etc.
- 15-109. General requirements for traffic-control signs, etc.
- 15-110. Unauthorized traffic-control signs, etc.
- 15-111. Presumption with respect to traffic-control signs, etc.
- 15-112. School safety patrols.
- 15-113. Driving through funerals or other processions.

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<sup>1</sup>Municipal code reference

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

<sup>2</sup>State law references

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

- 15-114. Clinging to vehicles in motion.
- 15-115. Riding on outside of vehicles.
- 15-116. Backing vehicles.
- 15-117. Projections from the rear of vehicles.
- 15-118. Causing unnecessary noise.
- 15-119. Vehicles and operators to be licensed.
- 15-120. Passing.
- 15-121. Motorcycles, motor driven cycles, motorized bicycles, bicycles, etc.
- 15-122. Delivery of vehicle to unlicensed driver, etc.
- 15-123. Compliance with financial responsibility law required.

15-101. 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.

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.

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

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.

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 city for one-way traffic.

(2) All vehicles proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven as close as practicable to the right hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn.

15-106. 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.

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.

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

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

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

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

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<sup>1</sup>Municipal code references

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

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

signal, or which attempts to control the movement of traffic or parking of vehicles, or which hides from view or interferes with the effectiveness of any official traffic-control sign, signal, marking, or device or any railroad sign or signal.

15-111. 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.

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.

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.

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.

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.

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.

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 ( $\frac{1}{2}$ ) hour after sunset and one-half ( $\frac{1}{2}$ ) hour before sunrise, there shall be displayed in place of the flag a

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

15-118. 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.

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 Classified and Commercial Driver License Act of 1988."

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.

15-121. Motorcycles, motor driven cycles, motorized bicycles, etc.

(1) Definitions. For the purpose of the application of this section, the following words shall have the definitions indicated:

(a) "Motorcycle." Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, but excluding a tractor or motorized bicycle.

(b) "Motor-driven cycle." Every motorcycle, including every motor scooter, with a motor which produces not to exceed five (5) brake horsepower, or with a motor with a cylinder capacity not exceeding one hundred and twenty-five cubic centimeters (125cc).;

(c) "Motorized bicycle." A vehicle with two (2) or three (3) wheels, an automatic transmission, and a motor with a cylinder capacity not exceeding fifty (50) cubic centimeters which produce no more than two (2) brake horsepower and is capable of propelling the vehicle at a maximum design speed of no more than thirty (30) miles per hour on level ground.

(2) Every person riding or operating a bicycle, motor cycle, motor driven cycle or motorized bicycle shall be subject to the provisions of all traffic ordinances, rules, and regulations of the city applicable to the driver or operator of other vehicles except as to those provisions which by their nature can have no application to bicycles, motorcycles, motor driven cycles or motorized bicycles.

(3) No person operating or riding a bicycle, motorcycle, motor driven cycle or motorized bicycle shall ride other than upon or astride the permanent and regular seat attached thereto, nor shall the operator carry any other person upon such vehicle other than upon a firmly attached and regular seat thereon.

(4) No bicycle, motorcycle, motor driven cycle or motorized bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

(5) No person operating a bicycle, motorcycle, motor driven cycle or motorized bicycle shall carry any package, bundle, or article which prevents the rider from keeping both hands upon the handlebars.

(6) No person under the age of sixteen (16) years shall operate any motorcycle, motor driven cycle or motorized bicycle while any other person is a passenger upon said motor vehicle.

(7) Each driver of a motorcycle, motor driven cycle, or motorized bicycle and any passenger thereon shall be required to wear on his head a crash helmet of a type approved by the state's commissioner of safety.

(8) Every motorcycle, motor driven cycle, or motorized bicycle operated upon any public way within the corporate limits shall be equipped with a windshield or, in the alternative, the operator and any passenger on any such motorcycle, motor driven cycle or motorized bicycle shall be required to wear safety goggles, face shield or glasses containing impact resistant lenses for the purpose of preventing any flying object from striking the operator or any passenger in the eyes.

(9) It shall be unlawful for any person to operate or ride on any vehicle in violation of this section, and it shall also be unlawful for any parent or guardian knowingly to permit any minor to operate a motorcycle, motor driven cycle or motorized bicycle in violation of this section.

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

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

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

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

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

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

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

(3) It shall be unlawful for any parent or person having custody of a juvenile to permit any such juvenile to drive a motor vehicle upon the streets, highways, roads, parkways, avenues or public ways in the city in a reckless, careless, or unlawful manner, or in such a manner as to violate the ordinances of the city.

15-123. 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 Tennessee Code Annotated, this municipal code; or at the time of an accident for which notice is required under Tennessee Code Annotated, § 55-10-106, the officer shall request evidence of financial responsibility as required by this section. In case of an accident for which notice is required under Tennessee Code Annotated, § 55-10-106 the officer shall request such evidence from all drivers involved in the accident, without regard



to apparent or actual fault. For the purposes of this section, "financial responsibility" 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.

(3) 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).

(4) The penalty imposed by this section shall be in addition to any other penalty imposed by the laws of this state or this municipal code.

(5) On or before the court date, the person so charged may submit evidence of 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.

## CHAPTER 2

EMERGENCY VEHICLES

## SECTION

15-201. Authorized emergency vehicles defined.

15-202. Operation of authorized emergency vehicles.

15-203. Following emergency vehicles.

15-204. Running over fire hoses, etc.

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

15-202. Operation of authorized emergency vehicles.<sup>1</sup> (1) The driver of an authorized emergency vehicle, when responding to an emergency call, or when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, subject to the conditions herein stated.

(2) The driver of an authorized emergency vehicle may:

(a) Park or stand, irrespective of the provisions of this title;

(b) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;

(c) Exceed the maximum speed limit so long as life or property is not thereby endangered; and

(d) Disregard regulations governing direction of movement or turning in specified directions.

(3) The exemptions herein granted to an authorized emergency vehicle shall apply only when such vehicle is making use of audible and visual signals meeting the requirements of the applicable laws of this state, except that an authorized emergency vehicle operated as a police vehicle may be equipped with or display a red light only in continuation with a blue light visible from in front of the vehicle.

(4) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of the driver's own reckless disregard for the safety of others.

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<sup>1</sup>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 other than one on official business shall follow any authorized emergency vehicle apparently traveling in response to an emergency call closer than five hundred (500) feet or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm.

15-204. 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.

## CHAPTER 3

SPEED LIMITS

## SECTION

15-301. In general.

15-302. At intersections.

15-303. In school zones.

15-301. In general. It shall be unlawful for any person to operate or drive a motor vehicle upon any highway or street at a rate of speed in excess of thirty (30) miles per hour except where official signs have been posted indicating other speed limits, in which cases the posted speed limit shall apply.

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.

15-303. In school zones. (1) Pursuant to Tennessee Code Annotated, § 55-8-152, the city shall have the authority to enact special speed limits in school zones. Such special speed limits shall be enacted based on an engineering investigation; shall not be less than fifteen (15) miles per hour; and shall be in effect only when proper signs are posted with a warning flasher or flashers in operation. It shall be unlawful for any person to violate any such special speed limit enacted and in effect in accordance with this subsection.

(2) In school zones where the city council has not established special speed limits as provided for above, any person who shall drive at a speed exceeding fifteen (15) miles per hour when passing a school during a recess period when a warning flasher or flashers are in operation, or during a period of ninety (90) minutes before the opening hour of a school, or a period of ninety (90) minutes after the closing hour of a school, while children are actually going to or leaving school, shall be prima facie guilty of reckless driving.

## CHAPTER 4

TURNING MOVEMENTS

## SECTION

15-401. Generally.

15-402. Right turns.

15-403. Left turns on two-way roadways.

15-404. Left turns on other than two-way roadways.

15-405. U-turns.

15-401. Generally. Every driver who intends to turn, or partly turn from a direct line, shall first see that such movement can be made in safety, and whenever the operation of any other vehicle may be affected by such movement, shall give a signal required in Tennessee Code Annotated, § 55-8-143, plainly visible to the driver of such other vehicle of the intention to make such movement.

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.

15-403. Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of such center line where it enters the intersection, and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered. Whenever practicable, the left turn shall be made in that portion of the intersection to the left of the center of the intersection.

15-404. Left turns on other than two-way roadways. At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left hand lane lawfully available to traffic moving in the direction of travel of such vehicle, and after entering the intersection, the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left hand lane lawfully available to traffic moving in such direction upon the roadway being entered.

15-405. U-turns. U-turns are prohibited.

## CHAPTER 5

STOPPING AND YIELDING

## SECTION

- 15-501. Upon approach of authorized emergency vehicles.
- 15-502. When emerging from alleys, etc.
- 15-503. To prevent obstructing an intersection.
- 15-504. At railroad crossings.
- 15-505. At "stop" signs.
- 15-506. At "yield" signs.
- 15-507. At traffic-control signals generally.
- 15-508. At flashing traffic-control signals.
- 15-509. At pedestrian control signals.
- 15-510. Stops to be signaled.

15-501. Upon approach of authorized emergency vehicles.<sup>1</sup> Upon the immediate approach of an authorized emergency vehicle making use of audible and/or visual signals meeting the requirements of the applicable laws of this state, or of a police vehicle making use of an audible signal only, the driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as close as possible to, the right hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.

15-502. When emerging from alleys, etc. The drivers of all vehicles emerging from alleys, parking lots, driveways, or buildings shall stop such vehicles immediately prior to driving onto a sidewalk or onto the sidewalk area extending access any alleyway or driveway, and shall yield the right-of-way to any pedestrian as may be necessary to avoid collision, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on the roadway.

15-503. 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.

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<sup>1</sup>Municipal code reference

Special privileges of emergency vehicles: title 15, chapter 2.

15-504. At railroad crossings. Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of such vehicle shall stop within fifty feet (50') but not less than fifteen feet (15') from the nearest rail of such railroad, and shall not proceed until that driver can do so safely. The foregoing requirements shall apply when:

(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 when a human flagger gives or continues to give a signal of the approach or passage of a railroad train;

(3) A railroad train approaching within approximately one thousand five hundred feet (1500') of the highway crossing emits a signal audible from such distance and such railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard; and

(4) An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.

No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being closed or is being opened or closed.

15-505. At "stop" signs. The driver of a vehicle facing a "stop" sign shall stop before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, shall stop at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection, except when directed to proceed by a police officer or traffic control signal.

15-506. At "yield" signs. The driver of a vehicle who is faced with a yield sign at the entrance to a through highway or other public roadway is not necessarily required to stop, but is required to exercise caution in entering the highway or other roadway and to yield the right-of-way to other vehicles which have entered the intersection from the highway or other roadway, or which are approaching so closely on the highway or other roadway as to constitute an immediate hazard, and the driver having so yielded may proceed when the way is clear.

Where there is provided more than one (1) lane for vehicular traffic entering a through highway or other public roadway, if one (1) or more lanes at such entrance are designated a yield lane by an appropriate marker, this section shall control the movement of traffic in any lane so marked with a yield sign, even though traffic in other lanes may be controlled by an electrical signal device or other signs, signals, markings or controls.

15-507. At traffic-control signals generally. Whenever traffic is controlled by traffic control signals exhibiting the words "Go," "Caution," or

"Stop," or exhibiting different colored lights successively one at a time, or with arrows, the following colors only shall be used and the terms and lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

(1) Green alone, or "Go":

(a) Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

(b) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(2) Yellow alone, or "Caution," when shown following the green or "Go" signal:

(a) Vehicular traffic facing the signal is thereby warned that the red or "Stop" signal will be exhibited immediately thereafter, and such vehicular traffic shall not enter or be crossing the intersection when the red or "Stop" signal is exhibited.

(b) Pedestrians facing the signal are thereby advised that there is insufficient time to cross the roadway, and any pedestrian then starting to cross shall yield the right-of-way to all vehicles.

(3) Red alone, or "Stop":

(a) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or "Go" is shown alone. A right turn on a red signal shall be permitted at all intersections within the city, provided that the prospective turning car shall come to a full and complete stop before turning and that the turning car shall yield the right of way to pedestrians and cross traffic traveling in accordance with their traffic signal. However, said turn will not endanger other traffic lawfully using said intersection. A right turn on red shall be permitted at all intersections, except those that are clearly marked by a "No Turns On Red" sign, which may be erected by the city at intersections which the city decides require no right turns on red in the interest of traffic safety.

(b) No pedestrian facing such signal shall enter the roadway unless such entry can be made safely and without interfering with any vehicular traffic.

(c) A left turn on a red or stop signal shall be permitted at all intersections within the city where a one-way street intersects with another one-way street moving in the same direction into which the left turn would be made from the original one-way street. Before making such a turn, the prospective turning car shall come to a full and complete stop and shall yield the right-of-way to pedestrians and cross traffic



traveling in accordance with the traffic signal so as not to endanger traffic lawfully using the intersection. A left turn on red shall be permitted at any applicable intersection except that clearly marked by a "No Turn on Red" sign, which may be erected by the city at intersections which the city decides requires no left turns on red in the interest of traffic safety.

(4) Steady red with green arrow:

(a) Vehicular traffic facing such signal may cautiously enter the intersection only to make the movement indicated by such arrow but shall yield the right-of-way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection.

(b) No pedestrian facing such signal shall enter the roadway unless such entry can be made safely and without interfering with any vehicular traffic.

(5) In the event an official traffic control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made at the signal.

15-508. At flashing traffic-control signals. (1) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal, it shall require obedience by vehicular traffic as follows:

(a) Flashing red (stop signal). When a red lens is illuminated with intermittent flashes, and the light is clearly visible for a significant distance ahead to permit such stopping, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(b) Flashing yellow (caution signal). When a yellow lens is illuminated with intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

(2) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules set forth in § 15-504 of this code.

15-509. At pedestrian control signals. Wherever special pedestrian control signals exhibiting the words "Walk" or "Wait" or "Don't Walk" are in place, such signals shall indicate as follows:

(1) "Walk." Pedestrians facing such signal may proceed across the roadway in the direction of the signal and shall be given the right-of-way by the drivers of all vehicles.

(2) "Wait or Don't Walk." No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his crossing on the walk signal shall proceed to the nearest sidewalk or safety island while the wait signal is showing.

15-510. Stops to be signaled. Every driver operating a motor vehicle who intends to stop such vehicle, shall first see that such movement can be made in safety, and whenever the operation of any other vehicle may be affected by such movement, shall give the signal required in Tennessee Code Annotated, § 55-8-143, plainly visible to the driver of such other vehicle of the intention to make such movement.

## CHAPTER 6

PARKING

## SECTION

- 15-601. Generally.
- 15-602. Angle parking.
- 15-603. Occupancy of more than one space.
- 15-604. Where prohibited.
- 15-605. Loading and unloading zones.
- 15-606. Presumption with respect to illegal parking.

15-601. Generally. No person shall leave any motor vehicle unattended on any street without first setting the brakes thereon, stopping the motor, removing the ignition key, and turning the front wheels of such vehicle toward the nearest curb or gutter of the street.

Except as hereinafter provided, every vehicle parked upon a street within this 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 city has not placed signs prohibiting the same, vehicles may be permitted to park on the left side of the street, and in such cases the left wheels shall be required to be within eighteen (18) inches of the left edge or curb of the street.

Notwithstanding anything else in this code to the contrary, no person shall park or leave a vehicle parked on any public street or alley within the fire limits between the hours of 1:00 A.M. and 5:00 A.M. or on any other public street or alley for more than seventy-two (72) consecutive hours without the prior approval of the chief of police.

Furthermore, no person shall wash, grease, or work on any vehicle, except to make repairs necessitated by an emergency, while such vehicle is parked on a public street.

15-602. Angle parking. On those streets which have been signed or marked by the city for angle parking, no person shall park or stand a vehicle other than at the angle indicated by such signs or markings. No person shall angle park any vehicle which has a trailer attached thereto or which has a length in excess of twenty-four (24) feet.

15-603. 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.

15-604. Where prohibited. No person shall park a vehicle in violation of any sign placed or erected by the state or city, nor:

- (1) On a sidewalk; provided, however, a bicycle may be parked on a sidewalk if it does not impede the normal and reasonable movement of pedestrian or other traffic;
- (2) In front of a public or private driveway;
- (3) Within an intersection;
- (4) Within fifteen (15) feet of a fire hydrant;
- (5) Within a pedestrian crosswalk;
- (6) Within twenty (20) feet of a crosswalk at an intersection;
- (7) Within thirty (30) feet upon the approach of any flashing beacon, stop sign or traffic control signal located at the side of a roadway;
- (8) Within fifty feet (50') of the nearest rail of a railroad crossing;
- (9) Within twenty feet (20') of the driveway entrance to any fire station, and on the side of the street opposite the entrance to any fire station within seventy-five feet (75') of such entrance when properly signposted;
- (10) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;
- (11) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
- (12) Upon any bridge or other elevated structure upon a highway or within a highway tunnel;
- (13) In a parking space clearly identified by an official sign as being reserved for the physically handicapped, unless, however, the person driving the vehicle is
  - (a) Physically handicapped; or
  - (b) Parking such vehicle for the benefit of a physically handicapped person. A vehicle parking in such a space shall display a certificate of identification or a disabled veteran's license plate issued under Tennessee Code Annotated, , title 55, chapter 21.

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 city as a loading and unloading zone.

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.

## CHAPTER 7

ENFORCEMENT

## SECTION

- 15-701. Issuance of traffic citations.
- 15-702. Failure to obey citation.
- 15-703. Illegal parking.
- 15-704. Impoundment of vehicles.
- 15-705. Disposal of abandoned motor vehicles.
- 15-706. Deposit of driver's license in lieu of bail.
- 15-707. Violation and penalty.

15-701. Issuance of traffic citations.<sup>1</sup> 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.

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.

15-703. Illegal parking. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, the officer finding such vehicle shall take its license number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a citation for the driver and/or owner to answer for the violation within thirty (30) days during the hours and at a place specified in the citation.

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<sup>1</sup>Municipal code reference

Issuance of citations in lieu of arrest: title 6.

State law reference

Tennessee Code Annotated, § 7-63-101, et seq.

15-704. Impoundment of vehicles. Members of the police department are hereby authorized, when reasonably necessary for the security of the vehicle or to prevent obstruction of traffic, to remove from the streets and impound any vehicle whose operator is arrested or any unattended vehicle which is parked so as to constitute an obstruction or hazard to normal traffic, or which has been parked for more than one (1) hour in excess of the time allowed for parking in any place, or which has been involved in two (2) or more violations of this title for which citation tags have been affixed to the vehicle and the vehicle not removed. Any impounded vehicle shall be stored until the owner or other person entitled thereto claims it, gives satisfactory evidence of ownership or right to possession, and pays all applicable fees and costs of impoundment and storage, or until it is otherwise lawfully disposed of.

15-705. 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.

15-706. Deposit of driver's license in lieu of bail. (1) Deposit allowed. Whenever any person lawfully possessing a chauffeur's or operator's license theretofore issued to him by the Tennessee Department of Safety, or under the driver licensing laws of any other state or territory or the District of Columbia, is issued a citation or arrested and charged with the violation of any city ordinance or state statute regulating traffic, except those ordinances and statutes, the violation of which call for the mandatory revocation of a operator's or chauffeur's license for any period of time, such person shall have the option of depositing his chauffeur's or operator's license with the officer or court demanding bail in lieu of any other security required for his appearance in the city court of this city in answer to such charge before said court.

(2) Receipt to be issued. Whenever any person deposits his chauffeur's or operator's license as provided, either the officer or the court demanding bail as described above, shall issue the person a receipt for the license upon a form approved or provided by the department of safety, and thereafter the person shall be permitted to operate a motor vehicle upon the public highways of this state during the pendency of the case in which the license was deposited. The receipt shall be valid as a temporary driving permit for a period not less than the time necessary for an appropriate adjudication of the matter in the city court, and shall state such period of validity on its face.

(3) Failure to appear--disposition of license. In the event that any driver who has deposited his chauffeur's or operator's license in lieu of bail fails to appear in answer to the charges filed against him, the clerk or judge of the city court accepting the license shall forward the same to the Tennessee Department of Safety for disposition by said department in accordance with the provisions of Tennessee Code Annotated, § 55-50-801, et seq.

15-707. 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. (a) Parking violations excluding handicapped parking. For parking violations, excluding handicapped parking violations, the offender may, within thirty (30) days, have the charge against him disposed of by paying to the city recorder a fine of ten dollars (\$10.00) provided he waives his right to a judicial hearing. If he appears and waives his right to a judicial hearing after thirty (30) days, his civil penalty shall be twenty-five dollars (\$25.00).

## TITLE 16

STREETS AND SIDEWALKS, ETC<sup>1</sup>

## CHAPTER

1. MISCELLANEOUS.
2. EXCAVATIONS.

## CHAPTER 1

MISCELLANEOUS

## SECTION

- 16-101. Obstructing streets, alleys, or sidewalks prohibited.
- 16-102. Trees projecting over streets, etc., regulated.
- 16-103. Trees, etc., obstructing view at intersections prohibited.
- 16-104. Projecting signs and awnings, etc., restricted.
- 16-105. Banners and signs across streets and alleys restricted.
- 16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.
- 16-107. Littering streets, alleys, or sidewalks prohibited.
- 16-108. Obstruction of drainage ditches.
- 16-109. Abutting occupants to keep sidewalks clean, etc.
- 16-110. Parades, etc., regulated.
- 16-111. Operation of trains at crossings regulated.
- 16-112. Animals and vehicles on sidewalks.
- 16-113. Fires in streets, etc.
- 16-114. Violations and penalty.

16-101. Obstructing streets, alleys, or sidewalks prohibited. No person shall use or occupy any portion of any public street, alley, sidewalk, or right of way for the purpose of storing, selling, or exhibiting any goods, wares, merchandise, or materials.

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 out over any street or alley at a height of less than fourteen (14) feet or over any sidewalk at a height of less than eight (8) feet.

16-103. Trees, etc., obstructing view at intersections prohibited. It shall be unlawful for any property owner or occupant to have or maintain on his

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<sup>1</sup>Municipal code reference

Related motor vehicle and traffic regulations: title 15.



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.

16-104. Projecting signs and awnings, etc., restricted. Signs, awnings, or other structures which project over any street or other public way shall be erected subject to the requirements of the building code.<sup>1</sup>

16-105. Banners and signs across streets and alleys restricted. It shall be unlawful for any person to place or have placed any banner or sign across any public street or alley except when expressly authorized by the city council after a finding that no hazard will be created by such banner or sign.

16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited. It shall be unlawful for any person owning or occupying property to allow any gate or door to swing open upon or over any street, alley, or sidewalk except when required by law.

16-107. Littering streets, alleys, or sidewalks prohibited. It shall be unlawful for any person to litter, place, throw, track, or allow to fall on any street, alley, or sidewalk any refuse, glass, tacks, mud, or other objects or materials which are unsightly or which obstruct or tend to limit or interfere with the use of such public ways and places for their intended purposes.

16-108. Obstruction of drainage ditches. It shall be unlawful for any person to permit or cause the obstruction of any drainage ditch in any public right of way.

16-109. Abutting occupants to keep sidewalks clean, etc. The occupants of property abutting on a sidewalk are required to keep the sidewalk clean. Also, immediately after a snow or sleet, such occupants are required to remove all accumulated snow and ice from the abutting sidewalk.

16-110. Parades, etc., regulated. It shall be unlawful for any person, club, organization, or other group to hold any meeting, parade, demonstration, or exhibition on the public streets without some responsible representative first securing a permit from the city recorder.

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<sup>1</sup>Municipal code reference  
Building code: title 12, chapter 1.

16-111. 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 law.

16-112. 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.

16-113. 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.

16-114. Violations and penalty. Violations of this chapter shall subject the offender to a penalty under the general penalty provision of this code.

## CHAPTER 2

EXCAVATIONS<sup>1</sup>

## SECTION

- 16-201. Permit required.
- 16-202. Applications.
- 16-203. Fee.
- 16-204. Deposit or bond.
- 16-205. Safety restrictions on excavations.
- 16-206. Restoration of streets, etc.
- 16-207. Insurance.
- 16-208. Time limits.
- 16-209. Supervision.
- 16-210. Violation and penalty.

16-201. Permit required. It shall be unlawful for any person, firm, corporation, association, or others, including utility districts, to make any excavation in any street, alley, or public place, or to tunnel under any street, alley, or public place without having first obtained a permit as herein required, and without complying with the provisions of this chapter; and it shall also be unlawful to violate, or vary from, the terms of any such permit; provided, however, any person maintaining pipes, lines, or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately and a permit cannot reasonably and practicably be obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the office of the city recorder is open for business, and said permit shall be retroactive to the date when the work was begun.

16-202. Applications. Applications for such permits shall be made to the city recorder, or such person as he may designate to receive such applications, and shall state thereon the location of the intended excavation or tunnel, the size thereof, the purpose thereof, the person, firm, corporation, association, or others doing the actual excavating, the name of the person, firm, corporation, association, or others for whom the work is being done, and shall contain an agreement that the applicant will comply with all ordinances and laws relating

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<sup>1</sup>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).

to the work to be done. Such application shall be rejected or approved by the city recorder within twenty-four (24) hours of its filing.

16-203. Fee. The fee for such permits shall be twenty dollars (\$20.00).

16-204. Deposit or bond. No such permit shall be issued unless and until the applicant therefor has deposited with the city recorder a cash deposit. The deposit shall be in the sum of five hundred dollars (\$500.00) if no pavement is involved or one thousand dollars (\$1,000.00) if the excavation is in a paved area and shall insure the proper restoration of the ground and laying of the pavement, if any. Where the amount of the deposit is clearly inadequate to cover the cost of restoration, the city recorder may increase the amount of the deposit to an amount considered by him to be adequate to cover the cost. From this deposit shall be deducted the expense to the city of relaying the surface of the ground or pavement, and of making the refill if this is done by the city or at its expense. The balance shall be returned to the applicant without interest after the tunnel or excavation is completely refilled and the surface or pavement is restored.

In lieu of a deposit the applicant may deposit with the city recorder a surety bond in such form and amount as the city recorder shall deem adequate to cover the costs to the city if the applicant fails to make proper restoration.

16-205. Safety restrictions on excavations. Any person, firm, corporation, association, or others making any excavation or tunnel shall do so according to the terms and conditions of the application and permit authorizing the work to be done. Sufficient and proper barricades and lights shall be maintained to protect persons and property from injury by or because of the excavation being made. If any sidewalk is blocked by any such work, a temporary sidewalk shall be constructed and provided which shall be safe for travel and convenient for users.

16-206. Restoration of streets, etc. Any person, firm, corporation, association, or others making any excavation or tunnel in or under any street, alley, or public place in this city shall restore the street, alley, or public place to its original condition except for the surfacing, which shall be done by the city, 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 city 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 city 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 city, an accurate account of the

expense involved shall be kept, and the total cost shall be charged to the person, firm, corporation, association, or others who made the excavation or tunnel.

16-207. Insurance. In addition to making the deposit or giving the bond hereinbefore required to insure that proper restoration is made, each person applying for an excavation permit shall file a certificate of insurance indicating that he is insured against claims for 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 city recorder in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than \$250,000 for each person and \$600,000 for each accident, and for property damages not less than \$85,000 for any one (1) accident.

16-208. Time limits. Each application for a permit shall state the length of time it is estimated will elapse from the commencement of the work until the restoration of the surface of the ground or pavement, or until the refill is made ready for the pavement to be put on by the city if the city restores such surface pavement. It shall be unlawful to fail to comply with this time limitation unless permission for an extension of time is granted by the city recorder.

16-209. Supervision. The person designated by the city council shall from time to time inspect all excavations and tunnels being made in or under any public street, alley, or other public place in the city and see to the enforcement of the provisions of this chapter. Notice shall be given to him at least ten (10) hours before the work of refilling any such excavation or tunnel commences.

16-210. Violation and penalty. Any violation of this chapter shall constitute a civil offense and shall be punishable by a civil penalty under the general penalty provision of this code, by revocation of permit, or by both penalty and revocation. Each day a violation shall be allowed to continue shall constitute a separate offense.

## TITLE 17

REFUSE AND TRASH DISPOSAL<sup>1</sup>

## CHAPTER

## 1. REFUSE STORAGE AND COLLECTION.

## CHAPTER 1

REFUSE STORAGE AND COLLECTION

## SECTION

- 17-101. Refuse defined.
- 17-102. Premises to be kept clean.
- 17-103. Storage.
- 17-104. Location of containers.
- 17-105. Disturbing containers.
- 17-106. Collection.
- 17-107. Collection vehicles.
- 17-108. Disposal.
- 17-109. Refuse collection fees.
- 17-110. Violations and penalty.

17-101. Refuse defined. Refuse shall mean and include garbage, rubbish, leaves, brush, and refuse as those terms are generally defined except that dead animals and fowls, body wastes, hot ashes, rocks, concrete, bricks, and similar materials are expressly excluded therefrom and shall not be stored therewith.

17-102. Premises to be kept clean. All persons within the city are required to keep their premises in a clean and sanitary condition, free from accumulations of refuse except when stored as provided in this chapter.

17-103. Storage. Each owner, occupant, or other responsible person using or occupying any building or other premises within this 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, except that this maximum capacity shall not apply to larger containers which the city handles mechanically. Furthermore, except for containers which the city handles

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<sup>1</sup>Municipal code reference

Property maintenance regulations: title 13.

mechanically, the combined weight of any refuse container and its contents shall not exceed seventy-five (75) pounds. No refuse shall be placed in a refuse container until such refuse has been drained of all free liquids. Tree trimmings, hedge clippings, and similar materials shall be cut to a length not to exceed four (4) feet and shall be securely tied in individual bundles weighing not more than seventy-five (75) pounds each and being not more than two (2) feet thick before being deposited for collection.

17-104. Location of containers. Where alleys are used by the city refuse collectors, containers shall be placed on or within six (6) feet of the alley line in such a position as not to intrude upon the traveled portion of the alley. Where streets are used by the city refuse collectors, containers shall be placed adjacent to and back of the curb, or adjacent to and back of the ditch or street line if there be no curb, at such times as shall be scheduled by the city for the collection of refuse therefrom. As soon as practicable after such containers have been emptied they shall be removed by the owner to within, or to the rear of, his premises and away from the street line until the next scheduled time for collection.

17-105. Disturbing containers. No unauthorized person shall uncover, rifle, pilfer, dig into, turn over, or in any other manner disturb or use any refuse container belonging to another. This section shall not be construed to prohibit the use of public refuse containers for their intended purpose.

17-106. Collection. All refuse accumulated within the corporate limits shall be collected, conveyed, and disposed of under the supervision of the Cowan Street and Sanitation Department. Collections shall be made regularly in accordance with an announced schedule.

17-107. Collection vehicles. The collection of refuse shall be by means of vehicles with beds constructed of impervious materials which are easily cleanable and so constructed that there will be no leakage of liquids draining from the refuse onto the streets and alleys. Furthermore, all refuse collection vehicles shall utilize closed beds or such coverings as will effectively prevent the scattering of refuse over the streets or alleys.

17-108. Disposal. The disposal of refuse in any quantity by any person in any place, public or private, other than at the site or sites designated for refuse disposal by the city council is expressly prohibited.

17-109. Refuse collection fees. Refuse collection fees shall be at such rates as are from time to time set by the city council by ordinance or resolution.<sup>1</sup>

17-110. Violations and penalty. Violations of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

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<sup>1</sup>Administrative ordinances and resolutions are of record in the office of the city recorder.



## TITLE 18

WATER AND SEWERS<sup>1</sup>

## CHAPTER

1. WATER AND SEWER SYSTEM ADMINISTRATION.
2. WASTEWATER REGULATIONS.
3. CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.

## CHAPTER 1

WATER AND SEWER SYSTEM ADMINISTRATION<sup>2</sup>

## SECTION

- 18-101. Application and scope.
- 18-102. Definitions.
- 18-103. Application and contract for service.
- 18-104. Service charges for temporary service.
- 18-105. Connection charges.
- 18-106. Water and sewer main extensions.
- 18-107. Water and sewer main extension variances.
- 18-108. Meters.
- 18-109. Meter tests.
- 18-110. Multiple services through a single meter.
- 18-111. Customer billing and payment policy.
- 18-112. Termination or refusal of service.
- 18-113. Termination of service by customer.
- 18-114. Access to customer's premises.
- 18-115. Inspections.
- 18-116. Customer's responsibility for system's property.
- 18-117. Customer's responsibility for violations.
- 18-118. Supply and resale of water.
- 18-119. Unauthorized use of or interference with water supply.
- 18-120. Limited use of unmetered private fire line.
- 18-121. Damages to property due to water pressure.
- 18-122. Liability for cutoff failures.
- 18-123. Restricted use of water.

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<sup>1</sup>Municipal code references

Building and utility codes: title 12.  
Refuse disposal: title 17.

<sup>2</sup>Municipal code reference

Plumbing code: title 12, chapter 2.

18-124. Interruption of service.

18-125. Schedule of rates.

18-101. Application and scope. The provisions of this chapter are a part of all contracts for receiving water and sewer service from the city and shall apply whether the service is based upon contract, agreement, signed application, or otherwise.

18-102. Definitions. (1) "Customer" means any person, firm, or corporation who receives water and/or sewer service from the city under either an express or implied contract.

(2) "Dwelling" means any single residential unit or house occupied for residential purposes. Each separate apartment unit, duplex unit or other multiple dwelling unit shall be considered a separate dwelling.

(3) "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.

(4) "Service line" shall consist of the pipe line extending from any water or sewer main of the city 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 city's water main to and including the meter and meter box.

18-103. Application and contract for service. Each prospective customer desiring water and/or sewer service at a property they are paying rent on will be required to sign a standard form contract and pay one hundred dollars (\$100.00) before service is supplied. Fifty (50) of the one hundred dollars (\$100.00) shall be a deposit and fifty (50) shall be a cut on fee. The deposit shall be refundable if the city cannot supply service in accordance with the terms of this chapter or if, upon request of termination of service, the account has a zero balance. If, for any reason, a customer, after signing a contract for service, does not take such service by reason of not occupying the premises or otherwise, he shall reimburse the city for the expense incurred by reason of its endeavor to furnish such service.

The receipt of a prospective customer's application for service, shall not obligate the city to render the service applied for. If the service applied for cannot be supplied in accordance with the provisions of this chapter, the liability of the city to the applicant shall be limited to the return of any deposit made by such applicant.

18-104. 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.

18-105. Connection charges. Service lines will be laid by the city from its mains to the property line at the expense of the applicant for service. The location of such lines will be determined by the city.

Before a new water or sewer service line will be laid by the city, the applicant shall pay a nonrefundable tap fee of five hundred dollars (\$500.00) at property inside the Cowan city limits and one thousand dollars (\$1,000.00) outside the Cowan city limits.

When a service line is completed, the city shall be responsible for the maintenance and upkeep of such service line from the main to and including the meter and meter box, and such portion of the service line shall belong to the city. The remaining portion of the service line beyond the meter box (or property line, in the case of sewers) shall belong to and be the responsibility of the customer.

18-106. Water and sewer main extensions.<sup>1</sup> Persons desiring water and/or sewer main extensions must pay all of the cost of making such extensions.

All such extensions shall be installed either by city forces or by other forces working directly under the supervision of the city in accordance with plans and specifications prepared by an engineer registered with the State of Tennessee.

Upon completion of such extensions and their approval by the city, such water and/or sewer mains shall become the property of the city. The persons paying the cost of constructing such mains shall execute any written instruments requested by the city to provide evidence of the city's title to such mains. In consideration of such mains being transferred to it, the city shall incorporate said mains as an integral part of the municipal water and sewer systems and shall furnish water and sewer service therefrom in accordance with these rules and regulations, subject always to such limitations as may exist because of the size and elevation of the mains.

18-107. Water and sewer main extension variances. Whenever the city council is of the opinion that it is to the best interest of the city and its inhabitants to construct a water and/or sewer main extension without requiring strict compliance with the preceding section, such extension may be constructed upon such terms and conditions as shall be approved by the city council.

The authority to make water and/or sewer main extensions under the preceding section is permissive only and nothing contained therein shall be construed as requiring the city to make such extensions or to furnish service to any person or persons.

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<sup>1</sup>Municipal code reference

Construction of building sewers: title 18, chapter 2.

18-108. Meters. All meters shall be installed, tested, repaired, and removed only by the city.

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 city. 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.

18-109. Meter tests. The city 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:

<u>Meter Size</u>	<u>Percentage</u>
5/8", 3/4", 1", 2"	2%
3"	3%
4"	4%
6"	5%

The city will also make tests or inspections of its meters at the request of the customer. However, if a test required 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:

<u>Meter Size</u>	<u>Test Charge</u>
5/8", 3/4", 1"	\$12.00
1 1/2," 2"	15.00
3"	18.00
4"	22.00
6" and over	30.00

If such test show a meter not to be accurate within such limits, the cost of such meter test shall be borne by the city.

18-110. Multiple services through a single meter. No customer shall supply water service to more than one dwelling, premise, duplex unit, apartment or other multiple dwelling unit from a single service line and meter without first obtaining the written permission of the city.

Where the city allows more than one dwelling, premise, duplex unit, apartment or other multiple dwelling unit to be served through a single service line and meter, the amount of water used by all the dwellings, premises, duplex

units, apartments or other multiple dwelling units served through a single service line and meter shall be allocated to each separate dwelling, premise, duplex unit, apartment or other multiple dwelling unit served. The water charge of each such dwelling, premise, duplex unit, apartment or other multiple dwelling unit thus served shall be computed just as if each such dwelling, premise, duplex unit, apartment or other multiple dwelling unit had received through a separately metered service the amount of water so allocated to it, such computation to be made at the city's applicable water rates schedule, including the provisions as to minimum bills. The separate charges for each dwelling, premise, duplex unit, apartment or other multiple dwelling unit served through a single service line meter shall then be added together, and the sum thereof shall be billed to the customer in whose name the service is supplied.

18-111. Customer billing and payment policy. Water and sewer bills shall be rendered monthly and shall designate a standard net payment period for all members of not less than fifteen (15) days after the date of the bill. Failure to receive a bill will not release a customer from payment obligation. There is established for all members a late payment charge not to exceed ten percent (10%) for any portion of the bill paid after the net payment period.

Payment must be received in the water and sewer department no later than 5:00 P.M. on the due date. If the due date falls on Saturday, Sunday, or a holiday, net payment will be accepted if paid on the next business day no later than 5:00 P.M.

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 city reserves the right to render an estimated bill based on the best information available.

18-112. Termination or refusal of service. (1) Basis of termination or refusal. The city shall have the right to discontinue water and sewer service or to refuse to connect service for a violation of, or a failure to comply with , any of the following:

- (a) These rules and regulations, including the nonpayment of bills;
- (b) The customer's application for service;
- (c) The customer's contract for service.

The right to discontinue service shall apply to all water and sewer services received through collective single connections or services, even though more than one (1) customer or tenant is furnished services therefrom, and even though the delinquency or violation is limited to only one such customer or tenant.

(2) Termination of service. If bills for water, sewer, and garbage pickup are not paid by 8:00 A.M. on the morning of the 26<sup>th</sup> day of the month (except when the 25<sup>th</sup> falls on a Saturday, Sunday, or holiday), service will be

discontinued without notice, and a twenty-five dollar (\$25.00) reconnect fee, in addition to the unpaid bill, must be paid before service is continued.

18-113. 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 city 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 city 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 city 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 city 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.

18-114. Access to customers' premises. The city'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 city, and for inspecting customers' plumbing and premises generally in order to secure compliance with these rules and regulations.

18-115. Inspections. The city 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 city reserves the right to refuse service or to discontinue service to any premises not in compliance with any special contract, these rules and regulations, or other requirements of the city.

Any failure to inspect or reject a customer's installation or plumbing system shall not render the city liable or responsible for any loss or damage which might have been avoided had such inspection or rejection been made.

18-116. 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 city shall be and remain the property of the city. Each customer shall provide space for and exercise proper care to protect the property of the city on his premises. In the event of loss or damage to such property arising from the neglect of a customer to care for it properly, the cost of necessary repairs or replacements shall be paid by the customer.

18-117. Customer's responsibility for violations. Where the city 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.

18-118. Supply and resale of water. All water shall be supplied within the city exclusively by the city, 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 city.

18-119. Unauthorized use of or interference with water supply. No person shall turn on or turn off any of the city's stop cocks, valves, hydrants, spigots, or fire plugs without permission or authority from the city.

18-120. 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 city.

All private fire hydrants shall be sealed by the city, 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 city a written notice of such occurrence.

18-121. Damages to property due to water pressure. The city 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 city's water mains.

18-122. Liability for cutoff failures. The city'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 city has failed to cut off such service.

(2) The city has attempted to cut off a service but such service has not been completely cut off.

(3) The city 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 city's main.

Except to the extent stated above, the city 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 city's cutoff. Also, the customer (and not the city) shall be responsible for seeing that his plumbing is properly drained and is kept properly drained, after his water service has been cut off.

18-123. Restricted use of water. In times of emergencies or in times of water shortage, the city 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.

18-124. Interruption of service. The city will endeavor to furnish continuous water and sewer service, but does not guarantee to the customer any fixed pressure or continuous service. The city 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 city 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.

18-125. Schedule of rates. All water and sewer service shall be furnished under such rate schedules as the city may from time to time adopt by appropriate ordinance or resolution.<sup>1</sup>

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<sup>1</sup>Administrative ordinances and resolutions are of record in the office of the city recorder.



## CHAPTER 2

WASTEWATER REGULATIONS

## SECTION

- 18-201. Purpose and policy.
- 18-202. Definitions.
- 18-203. Connection to public sewers.
- 18-204. Septic tank effluent pump or grinder pump wastewater systems.
- 18-205. Private domestic wastewater disposal.
- 18-206. Regulation of holding tank waste disposal or trucked in waste.
- 18-207. Discharge regulations.
- 18-208. Application for domestic wastewater connection and industrial wastewater discharge permits.
- 18-209. Industrial user monitoring, inspection reports, records access, and safety.
- 18-210. Enforcement and abatement.
- 18-211. Fees and billing.
- 18-212. Validity.

18-201. Purpose and policy. This chapter sets forth uniform requirements for the disposal of wastewater in the service area of the City of Cowan, Tennessee wastewater treatment system. The objectives of this chapter are:

- (1) To protect the public health;
- (2) To provide problem free wastewater collection and treatment service;
- (3) To prevent the introduction of pollutants into the municipal wastewater treatment system, which will interfere with the system operation, which will cause the system discharge to violate its National Pollutant Discharge Elimination System (NPDES) permit or other applicable state requirements, or which will cause physical damage to the wastewater treatment system facilities;
- (4) To provide for full and equitable distribution of the cost of the wastewater treatment system;
- (5) To enable the city to comply with the provisions of the Federal Water Pollution Control Act, the General Pretreatment Regulations (40 CFR part 403), and the Tennessee Water Quality Control Act, Tennessee Code Annotated, § 69-3-123, et seq.;
- (6) To improve the opportunity to recycle and reclaim wastewaters and sludges from the wastewater treatment system.

In meeting these objectives, this chapter provides that all persons in the service area of the 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 city and to persons outside the city who are, by contract or agreement with the city, users of the municipal wastewater treatment system. Except as otherwise provided herein, the local administrative officer of the city shall administer, implement, and enforce the provisions of this chapter.

18-202. Definitions. Unless the context specifically indicates otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated:

(1) "Act" or "the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended 33 U.S.C. 1251, et seq.

(2) "Approval authority." The Tennessee Department of Environment and Conservation, Division of Water Pollution Control.

(3) "Authorized representative of industrial user." An authorized representative of an industrial user may be:

(a) A principal executive officer of at least the level of vice-president, if the industrial user is a corporation;

(b) A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively;

(c) A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

(4) "Biochemical oxygen demand (BOD)." The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure for five (5) days at 20° centigrade expressed in terms of weight concentration (milligrams per liter (mg/l)).

(5) "Building sewer." A sewer conveying wastewater from the premises of a user to the publicly owned sewer collection system.

(6) "Categorical standards." The National Categorical Pretreatment Standards or pretreatment standard.

(7) "City." The City Council, City of Cowan, Tennessee.

(8) "Commissioner." The commissioner of environment and conservation or the commissioner's duly authorized representative and, in the event of the commissioner's absence or a vacancy in the office of commissioner, the deputy commissioner.

(9) "Compatible pollutant." Shall mean BOD, suspended solids, pH, fecal coliform bacteria, and such additional pollutants as are now or may in the

future be specified and controlled in the city's NPDES permit for its wastewater treatment works where sewer works have been designed and used to reduce or remove such pollutants.

(10) "Control authority." The term "control authority" shall refer to the "approval authority," defined hereinabove; or the local hearing authority if the city has an approved pretreatment program under the provisions of 40 CFR 403.11.

(11) "Cooling water." The water discharge from any use such as air conditioning, cooling, or refrigeration, or to which the only pollutant added is heat.

(12) "Customer." Any individual, partnership, corporation, association, or group who receives sewer service from the 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." Solid wastes generated from any domestic, commercial or industrial source.

(17) "Grab sample." A sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and is collected over a period of time not to exceed fifteen (15) minutes. Grab sampling procedure: Where composite sampling is not an appropriate sampling technique, a grab sample(s) shall be taken to obtain influent and effluent operational data. Collection of influent grab samples should precede collection of effluent samples by approximately one detention period. The detention period is to be based on a twenty-four (24) hour average daily flow value. The average daily flow used will be based upon the average of the daily flows during the same month of the previous year. Grab samples will be required, for example, where the parameters being evaluated are those, such as cyanide and phenol, which may not be held for any extended period because of biological, chemical or physical interactions which take place after sample collection and affect the results.

(18) "Grease interceptor." An interceptor whose rated flow is 50 g.p.m. or less and is generally located inside the building.

(19) "Grease trap." An interceptor whose rated flow is 50 g.p.m. or more and is located outside the building.

(20) "Holding tank waste." Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

(21) "Incompatible pollutant." Any pollutant which is not a "compatible pollutant" as defined in this section.

(22) "Indirect discharge." The discharge or the introduction of non-domestic pollutants from any source regulated under section 307(b) or (c) of the Act, (33 U.S.C. 1317), into the POTW (including holding tank waste discharged into the system).

(23) "Industrial user." A source of indirect discharge which does not constitute a "discharge of pollutants" under regulations issued pursuant to section 402, of the Act (33 U.S.C. 1342).

(24) "Industrial wastes." Any liquid, solid, or gaseous substance, or combination thereof, or form of energy including heat, resulting from any process of industry, manufacture, trade, food processing or preparation, or business or from the development of any natural resource.

(25) "Interceptor." A device designed and installed to separate and retain for removal, by automatic or manual means, deleterious, hazardous or undesirable matter from normal wastes, while permitting normal sewage or waste to discharge into the drainage system by gravity.

(26) "Interference." The inhibition or disruption of the municipal wastewater processes or operations which contribute 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 405 of the Act, (33 U.S.C. 1345) or any criteria including 40 CFR 503, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), Rules and Regulations of the State of Tennessee, chapter 1200-1-7 (Solid Waste Processing and Disposal), the Clean Air Act, the Toxic Substances Control Act, or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to title IV of SWDA) applicable to the method of disposal or use employed by the municipal wastewater treatment system.

(27) "Local administrative officer." The chief administrative officer of the local hearing authority.

(28) "Local hearing authority." The city council or such person or persons appointed by the council to administer and enforce the provisions of this chapter and conduct hearings pursuant to § 18-210.

(29) "National categorical pretreatment standard" or "pretreatment standard." Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act (33 U.S.C. 1347) which applies to a specific category of industrial users.

(30) "New source." Any source, the construction of which is commenced after the publication of proposed regulations prescribing a section 307(c) (33 U.S.C. 1317) categorical pretreatment standard which will be applicable to such

source, if such standard is thereafter promulgated within one hundred twenty (120) days of proposal in the Federal Register. Where the standard is promulgated later than one hundred twenty (120) days after proposal, a new source means any source, the construction of which is commenced after the date of promulgation of the standard.

(31) "NPDES (National Pollution Discharge Elimination System)." The program for issuing, conditioning, and denying permits for the discharge of pollutants from point sources into navigable waters, the contiguous zone, and the oceans pursuant to section 402 of the Federal Water Pollution Control Act as amended.

(32) "Person." Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents, or assigns. The masculine gender shall include the feminine and the singular shall include the plural where indicated by the context.

(33) "pH." The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

(34) "Pollution." The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

(35) "Pollutant." Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage, sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharge into water.

(36) "POTW treatment plant." That portion of the POTW designed to provide treatment to wastewater.

(37) "Pretreatment" or "treatment." The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical, biological processes, or process changes or other means, except through dilution as prohibited by 40 CFR section 403.6(d).

(38) "Pretreatment coordinator." The person designated by the local administrative officer or his authorized representative to supervise the operation of the pretreatment program.

(39) "Pretreatment requirements." Any substantive or procedural requirement related to pretreatment other than a national pretreatment standard imposed on an industrial user.

(40) "Publicly owned treatment works (POTW)." A treatment works as defined by section 212 of the Act, (33 U.S.C. 1292) which is owned in this instance by the 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.

(41) "Shall" is mandatory; "May" is permissive.

(42) "Significant industrial user." The term significant industrial user means:

(a) All industrial users subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N; and

(b) Any other industrial user that: discharges an average of twenty-five thousand (25,000) gallons per day or more of process wastewater to the POTW (excluding sanitary, non-contract cooling and boiler blowdown wastewater); contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the control authority as defined in 40 CFR 403.12(a) on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement (in accordance with 40 CFR 403.8(f)(6)).

(43) "Significant noncompliance." Per 40 CFR 403.8(f)(2)vii.

(a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six (66) percent or more of all of the measurements taken during a six (6) month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;

(b) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three (33) or more of all of the measurements for each pollutant parameter taken during a six (6) month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC=1.4 for BOD, TSS fats, oils and grease, and 1.2 for all other pollutants except pH).

(c) Any other violation of a pretreatment effluent limit (daily maximum of longer-term average) that the control authority determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public).

(d) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority under 40 CFR 403.8(f)(1)(vi)(B) to halt or prevent such a discharge.

(e) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance.

(f) Failure to provide, within thirty (30) days after their due date, required reports such as baseline monitoring reports, ninety (90) day compliance reports, periodic self monitoring reports, and reports on compliance with compliance schedules.

(g) Failure to accurately report noncompliance.

(h) Any other violation or group of violations which the control authority determines will adversely affect the operation of implementation of the local pretreatment program.

(i) Continuously monitored pH violations that exceed limits for a time period greater than fifty (50) minutes or exceed limits by more than 0.5 s.u. more than eight (8) times in four (4) hours.

(44) "Slug." Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in § 18-207 of this chapter or any discharge of a non-routine, episodic nature, including but not limited to, an accidental spill or a non-customary batch discharge.

(45) "Standard industrial classification (SIC)." A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

(46) "State." State of Tennessee.

(47) "Storm sewer" or "storm drain." A pipe or conduit which carries storm and surface waters and drainage, but excludes sewage and industrial wastes. It may, however, carry cooling waters and unpolluted waters, upon approval of the superintendent.

(48) "Storm water." Any flow occurring during or following any form of natural precipitation and resulting therefrom.

(49) "Superintendent." The local administrative officer or person designated by him to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this chapter, or his duly authorized representative.

(50) "Suspended solids." The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquids and that is removable by laboratory filtering.

(51) "Toxic pollutant." Any pollutant or combination of pollutants listed as toxic in regulations published by the administrator of the Environmental Protection Agency under the provision of CWA 307(a) or other Acts.

(52) "Twenty-four (24) hour flow proportional composite sample." A sample consisting of several sample portions collected during a twenty-four (24) hour period in which the portions of a sample are proportioned to the flow and combined to form a representative sample.

(53) "User." Any person who contributes, causes or permits the contribution of wastewater into the city's POTW.

(54) "Wastewater." The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and

institutions, whether treated or untreated, which is contributed into or permitted to enter the POTW.

(55) "Wastewater treatment systems." Defined the same as POTW.

(56) "Waters of the state." All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and other bodies of accumulation of water, surface or underground, natural or artificial, public or private, that are contained within, flow through, or border upon the state or any portion thereof.

18-203. Connection to public sewers. (1) Requirements for proper wastewater disposal. (a) it shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the service area of the city, any human or animal excrement, garbage, or other objectionable waste.

(b) It shall be unlawful to discharge to any waters of the state within the service area of the city any sewage or other polluted waters, except where suitable treatment has been provided in accordance with provisions of this chapter.

(c) Except as herein provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

(d) Except as provided in § 18-203(1)(e) below, the owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes situated within the service area in which there is now located or may in the future be located a public sanitary sewer, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of the chapter, within sixty (60) days after date of official notice to do so, provided that said public sewer is within five hundred (500) feet of the property line over public access.

(e) The owner of a manufacturing facility may discharge wastewater to the waters of the state provided that he obtains an NPDES permit and meets all requirements of the Federal Clean Water Act, the NPDES permit, and any other applicable local, state, or federal statutes and regulations.

(f) Where a public sanitary sewer is not available under the provisions of § 18-203(1)(d) above, the building sewer shall be connected to a private sewage disposal system complying with the provisions of § 18-205 of this chapter.

(2) Physical connection to a public sewer. (a) No person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof. The city shall make all connections to the public sewer upon the property owner first submitting



a connection application from the superintendent as required by § 18-208 of this chapter.

The connection application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the superintendent. A connection fee shall be paid to the city at the time the application is filed.

(b) All costs and expenses incident to the installation, connection, and inspection of the building sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(c) A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

(d) Old building sewers may be used in connection with new buildings only when they are found on examination and tested by the superintendent to meet all requirements of this chapter. All others may be sealed to the specifications of the superintendent.

(e) Building sewers shall conform to the following requirements:

(i) The minimum size of a building sewer shall be as follows:

- (A) Conventional sewer system--four inches (4");
- (B) Small diameter gravity sewer--two inches (2");
- (C) Septic tank effluent pump--one and one quarter inches (1¼").

Where the septic tanks become an integral part of the collection and treatment system, the minimum size influent line shall be four (4) inches and the minimum size of septic tank shall be one thousand (1,000) gallons. Septic tanks shall be constructed of water tight material and protected from flotation. The city shall have the right, privilege, and authority to locate, inspect, operate, and maintain septic tanks which are an integral part of the collection and treatment system.

(ii) The minimum depth of a building sewer shall be eighteen (18) inches.

(iii) Building sewers shall be laid on the following grades:

- (A) Four inch (4") sewers--1/8 inch per foot;
- (B) Two inch (2") sewers--3/8 inch per foot.

Larger building sewers shall be laid on a grade that will produce a velocity when flowing full of at least 2.0 feet per second.

(iv) Slope and alignment of all building sewers shall be neat and regular.

(v) Building sewers shall be constructed only of ductile iron pipe class 50 or above or polyvinyl chloride pipe schedule 40 or and SDR-21 or greater. Joints shall be rubber or neoprene "o" ring compression joints or solvent welded. No other joints shall be acceptable.

(vi) A cleanout shall be located five (5) feet outside of the building, one as it crosses the property line and one at each change of direction of the building sewer which is greater than forty-five (45) degrees. Additional cleanouts shall be placed not more than seventy-five (75) feet apart in horizontal building sewers of six (6) inch nominal diameter and not more than one hundred (100) feet apart for larger pipes. Cleanouts shall be extended to or above the finished grade level directly above the place where the cleanout is installed. A "Y" (wye) and 1/8 bend shall be used for the cleanout base. Cleanouts shall not be smaller than four (4) inches.

(vii) Connections of building sewers to the public sewer system shall be made only by the city and shall be made at the appropriate existing wyes or tee branch using compression type couplings or collar type rubber joint with stainless steel bands. Where existing wye or tee branches are not available, connections of building services shall be made by either removing a length of pipe and replacing it with a wye or tee fitting using flexible neoprene adapters with stainless steel bands of a type approved by the superintendent. All such connections shall be made gastight and watertight.

(viii) The building sewer may be brought into the building below the basement floor when gravity flow from the building to the sanitary sewer is at a grade of 1/8-inch per foot or more if possible. In cases where basement or floor levels are lower than the ground elevation at the point of connection to the sewer, adequate precautions by installation of check valves or other backflow prevention devices to protect against flooding shall be provided by the owner. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by a step or grinder pump and discharged to the building sewer at the expense of the owner, pursuant to § 18-204.

(ix) The methods to be used in excavating, placing of pipe, jointing, testing, backfilling the trench, or other activities in the construction of a building sewer which have not been described above shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city

or to the procedures set forth in appropriate specifications of the ASTM and Water Environment Federation Manual of Practice FD-5. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installation.

(x) An installed building sewer shall be gastight and watertight.

(f) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

(g) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, basement drains, sump pumps, or other sources of surface runoff or groundwater to a building directly or indirectly to a public sanitary sewer.

(h) Inspection of connections. (i) The sewer connection and all building sewers from the building to the public sewer main line shall be inspected before the underground portion is covered, by the superintendent or his authorized representative.

(ii) The applicant for discharge shall notify the superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the superintendent or his representative.

(3) Maintenance of building sewers. Each individual property owner shall be entirely responsible for the construction, maintenance, repair or replacement of the building sewer as deemed necessary by the superintendent to meet specifications of the city. Owners failing to maintain or repair building sewers or who allow storm water to enter the sanitary sewer may face enforcement action by the superintendent up to and including discontinuation of water and sewer service.

(4) Sewer extensions. All expansion or extension of the public sewer constructed by property owners or developers must follow policies and procedures developed by the city. In the absence of policies and procedures the expansion or extension of the public sewer must be approved in writing by the superintendent or manager of the wastewater collection system. All plans and construction must follow the latest edition of Tennessee Design Criteria for Sewerage Works. Contractors must provide the superintendent or manager with documentation that all mandrel, pressure and vacuum tests as specified in design criteria were acceptable prior to use of the lines. Contractor's one year warranty period begins with occupancy or first permanent use of the lines. Contractors are responsible for all maintenance and repairs during the warranty period and final inspections as specified by the superintendent or manager. The superintendent or manager must give written approval to the contractor to acknowledge transfer of ownership to the city. Failure to construct or repair

lines to acceptable standards could result in denial or discontinuation of sewer service.

18-204. Septic tank effluent pump or grinder pump wastewater systems. When connection of building sewers to the public sewer by gravity flow lines is impossible due to elevation differences or other encumbrances, Septic Tank Effluent Pump (STEP) or Grinder Pump (GP) systems may be installed subject to water department regulations.

(1) Equipment requirements. (a) Septic tanks shall be of water tight construction and must be approved by the city.

(b) Pumps must be approved by the city and shall be maintained by the city.

(2) Installation requirements. Location of tanks, pumps, and effluent lines shall be subject to the approval of the city. Installation shall follow design criteria for STEP and GP systems as provided by the superintendent.

(3) Costs. STEP and GP equipment for new construction shall be purchased and installed at the developer's, homeowner's, or business owner's expense according to the specification of the city and connection will be made to the city sewer only after inspection and approval of the city.

(4) Ownership and easements. Homeowners or developers shall provide the city with ownership and an easement. Access by the city to the STEP and GP system must be guaranteed to operate, maintain, repair, restore service, and remove sludge.

Access manholes, ports, and electrical disconnects must not be locked, obstructed or blocked by landscaping or construction.

(5) Use of STEP and GP systems. (a) Home or business owners shall follow the STEP and GP users' guide provided by the superintendent.

(b) Home or business owners shall provide an electrical connection that meets specifications and shall provide electrical power.

(c) Home or business owners shall be responsible for maintenance drain lines from the building to the STEP and GP tank.

(d) Prohibited uses of the STEP and GP system.

(i) Connection of roof guttering, sump pumps or surface drains.

(ii) Disposal of toxic household substances.

(iii) Use of garbage grinders or disposers.

(iv) Discharge of pet hair, lint, or home vacuum water.

(v) Discharge of fats, grease, and oil.

(6) Tank cleaning. Solids removal from the septic tank shall be the responsibility of the city. However, pumping required more frequently than once every five (5) years shall be billed to the homeowner.

(7) Additional charges. The city shall be responsible for maintenance of the STEP and GP equipment. Repeat service calls for identical problems

shall be billed to the homeowner or business at a rate of no more than the actual cost of the service call.

18-205. Private domestic wastewater disposal. (1) Availability.

(a) Where a public sanitary sewer is not available under the provisions of § 18-203(1)(d), the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this section.

(b) Any residence, office, recreational facility, or other establishment used for human occupancy where the building drain is below the elevation to obtain a grade equivalent to 1/8-inch per foot in the building sewer but is otherwise accessible to a public sewer as provided in § 18-203, the owner shall provide a private sewage pumping station as provided in § 18-203(2)(e)(viii).

(c) Where a public sewer becomes available, the building sewer shall be connected to said sewer within sixty (60) days after date of official notice from the city to do so.

(2) Requirements. (a) A private domestic wastewater disposal system may not be constructed within the service area unless and until a certificate is obtained from the superintendent stating that a public sewer is not accessible to the property and no such sewer is proposed for construction in the immediate future. No certificate shall be issued for any private domestic wastewater disposal system employing subsurface soil absorption facilities where the area of the lot is less than that specified by the county health department.

(b) Before commencement of construction of a private sewage disposal system the owner shall first obtain written permission from the city and the county health department. The owner shall supply any plans, specifications, and other information as are deemed necessary by the city and the county health department.

(c) A private sewage disposal system shall not be placed in operation until the installation is completed to the satisfaction of the city and the county health department. They shall be allowed to inspect the work at any stage of construction and the owner shall notify the city and the county health department when the work is ready for final inspection, before any underground portions are covered. The inspection shall be made within a reasonable period of time after the receipt of notice by the city and the county health department.

(d) The type, capacity, location, and layout of a private sewage disposal system shall comply with all recommendations of the Tennessee Department of Environment and Conservation, the city and the county health department. No septic tank or cesspool shall be permitted to discharge to waters of Tennessee.

(e) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the city. When the public sewer becomes available, the building sewer, or the septic tank effluent line shall be connected to the public sewer within sixty (60) days of the date of availability and the private sewage disposal system should be cleaned of sludge and if no longer used as a part of the city's treatment system, filled with suitable material.

(f) No statement contained in this chapter shall be construed to interfere with any additional or future requirements that may be imposed by the city and the county health department.

18-206. Regulation of holding tank waste disposal or trucked in waste.

(1) Permit. No person, firm, association or corporation shall clean out, drain, or flush any septic tank or any other type of wastewater or excreta disposal system, unless such person, firm, association, or corporation obtains a permit from the city to perform such acts or services.

Any person, firm, association, or corporation desiring a permit to perform such services shall file an application on the prescribed form. Upon any such application, said permit shall be issued by the superintendent when the conditions of this chapter have been met and providing the superintendent is satisfied the applicant has adequate and proper equipment to perform the services contemplated in a safe and competent manner. Such permits shall be limited to the discharge of domestic sewage waste containing no industrial waste.

(2) Fees. For each permit issued under the provisions of this chapter the applicant shall agree in writing by the provisions of this section and pay an annual service charge to the city to be set as specified in § 18-211. Any such permit granted shall be for one fiscal year or fraction of the fiscal year, and shall continue in full force and effect from the time issued until the ending of the fiscal year, unless sooner revoked, and shall be nontransferable. The number of the permit granted hereunder shall be plainly painted three (3) inch permanent letters on each side of each motor vehicle used in the conduct of the business permitted hereunder.

(3) Designated disposal locations. The superintendent shall designate approved locations for the emptying and cleansing of all equipment used in the performance of the services rendered under the permit herein provided for, and it shall be a violation hereof for any person, firm, association or corporation to empty or clean such equipment at any place other than a place so designated. The superintendent may refuse to accept any truckload of waste at his absolute discretion where it appears that the waste would interfere with the operation of the POTW.

(4) Revocation of permit. Failure to comply with all the provisions of this chapter shall be sufficient cause for the revocation of such permit by the superintendent. The possession within the service area by any person of any

motor vehicle equipped with a body type and accessories of a nature and design capable of serving a septic tank or wastewater or excreta disposal system cleaning unit shall be prima facie evidence that such person is engaged in the business of cleaning, draining, or flushing septic tanks or other wastewater or excreta disposal systems within the service area of the City of Cowan.

(5) Trucked in waste. No waste material or cleaning waste will be allowed from trucks, railcars, barges, etc., or temporarily pumped waste or without written approval by the superintendent. This approval may require testing, flow monitoring and record keeping or the issuance of an industrial pretreatment permit.

18-207. Discharge regulations. (1) General discharge prohibitions. No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will pass through or interfere with the operation and performance of the POTW. These general prohibitions apply to all such users of a POTW whether or not the user is subject to national categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements. Violations of these general and specific prohibitions or the provisions of § 18-207 may result in the issuance of an industrial pretreatment permit, surcharges, discontinuance of water and/or sewer service and other fines and provisions of § 18-210. A user may not contribute the following substances to any POTW:

(a) Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time, shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent (5%) nor any single reading over twenty percent (20%) of the lower explosive limit (LEL) of the meter. Prohibited flammable materials including, but not limited to, wastestreams with a closed cap flash point of less than 140° F or 60° C using the test methods specified in 40 CFR 261.21. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromate, carbides, hydrides and sulfides and any other substances which the city, the state or EPA has notified the user is a fire hazard or a hazard to the system.

(b) Any wastewater having a pH less than 5.5 or higher than 9.5 or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW.

(c) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities including, but not limited to: grease,

garbage with particles greater than one-half inch ( $\frac{1}{2}$ " ) in any dimension, paunch manure, bones, hair, hides, or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, mud, or glass grinding or polishing wastes.

(d) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which will cause interference to the POTW.

(e) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.

(f) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.

(g) Any wastewater containing any toxic pollutants, chemical elements, or compounds in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans, including wastewater plant and collection system operators, or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to section 307(a) of the Act.

(h) Any trucked or hauled pollutants except at discharge points designated by the POTW.

(i) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in non-compliance with sludge use or disposal criteria, 40 CFR 503, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.

(j) Any substances which will cause the POTW to violate its NPDES permit or the receiving water quality standards.

(k) Any wastewater causing discoloration of the wastewater treatment plant effluent to the extent that the receiving stream water quality requirements would be violated, such as, but not limited to, dye wastes and vegetable tanning solutions.

(l) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the POTW which exceeds 40° C (104° F).



(m) Any waters or wastes causing an unusual volume of flow or concentration of waste constituting "slug" as defined herein.

(n) Any waters containing any radioactive wastes or isotopes of such halflife or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations.

(o) Any wastewater which causes a hazard to human life or creates a public nuisance.

(p) Any waters or wastes containing fats, wax, grease, or oil, whether emulsified or not, which cause accumulations of solidified fat in pipes, lift stations and pumping equipment, or interfere at the treatment plant.

(q) Any storm water, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the superintendent and the Tennessee Department of Environment and Conservation. Industrial cooling water or unpolluted process waters may be discharged on approval of the superintendent and the Tennessee Department of Environment and Conservation, to a storm sewer or natural outlet.

(2) Restrictions on wastewater strength. No person or user shall discharge wastewater which exceeds the set of standards provided in Table A--Plant Protection Criteria, unless specifically allowed by their discharge permit local limits (Table B--User Discharge Restrictions). Dilution of any wastewater discharge for the purpose of satisfying these requirements shall be considered in violation of this chapter.

Table A--Plant Protection Criteria

Parameter	Maximum Concentration (mg/l) (24 Hour Flow) Proportional Composite Sample	Maximum Instantaneous Concentration (mg/l) Grab Sample
Arsenic		
Benzene		
Cadmium		
Carbon Tetrachloride		
Chloroform		
Chromium (total)		
Copper		

Parameter	Maximum Concentration (mg/l) (24 Hour Flow) Proportional Composite Sample	Maximum Instantaneous Concentration (mg/l) Grab Sample
Cyanide		
Ethylbenzene		
Lead		
Mercury		
Methylene chloride		
Molybdenum		
Naphthalene		
Nickle		
Phenol		
Selenium		
Silver		
Tetrachloroethylene		
Toluene		
Total Phathalate		
Trichlorethlene		
1,1,1-Trichloroethane		
1,2 Transdichloroethylene		
Zinc		

Table B--User Discharge Restrictions

Pollutant	Average* Maximum Concentration (mg/l)	Instantaneous Maximum Concentration (mg/l)
Arsenic		
Benzene		
Cadmium		
Carbon Tetrachloride		
Chloroform		
Chromium (total)		
Copper		
Cyanide		
Ethylbenzene		
Lead		
Mercury		
Methylene chloride		

Pollutant	Average* Maximum Concentration (mg/l)	Instantaneous Maximum Concentration (mg/l)
Molybdenum		
Naphthalene		
Nickle		
Phenol		
Selenium		
Silver		
Tetrachloroethylene		
Toluene		
Total Phathalate		
Trichlorethlene		
1,1,1-Trichloroethane		
1,2 Transdichloroethylene		
Zinc		

\*Based on 24-hour flow proportional composite samples.

(3) Fats, oils and grease traps and interceptors. (a) Fat, Oil, and Grease (FOG), waste food, and sand interceptors. FOG, waste food and sand interceptors shall be provided when, in the opinion of the superintendent, they are necessary for the proper handling of liquid wastes containing fats, oils, and grease, any flammable wastes, ground food waste, sand, soil, and solids, or other harmful ingredients in excessive amount which impact the wastewater collection system. Such interceptors shall not be required for single family residences, but may be required on multiple family residences. All interceptors shall be of a type and capacity approved by the superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection.

(b) Fat, oil, grease, and food waste. (i) New construction and renovation. Upon construction or renovation, all restaurants, cafeterias, hotels, motels, hospitals, nursing homes, schools, grocery stores, prisons, jails, churches, camps, caterers, manufacturing plants and any other sewer users who discharge applicable waste shall submit a FOG and food waste control plan that will effectively control the discharge of FOG and food waste.

(ii) Existing structures. All existing restaurants, cafeterias, hotels, motels, hospitals, nursing homes, schools, grocery stores, prisons, jails, churches, camps, caterers, manufacturing plants and any other sewer users who discharge applicable waste shall be required to submit a plan for control of FOG and food waste, if and when the superintendent determines

that FOG and food waste are causing excessive loading, plugging, damage or potential problems to structures or equipment in the public sewer system.

(iii) Implementation of plan. After approval of the FOG plan by the superintendent the sewer user must:

(A) Implement the plan within a reasonable amount of time;

(B) Service and maintain the equipment in order to prevent adverse impact upon the sewer collection system and treatment facility. If in the opinion of the superintendent the user continues to impact the collection system and treatment plan, additional pretreatment may be required, including a requirement to meet numeric limits and have surcharges applied.

(c) Sand, soil, and oil interceptors. All car washes, truck washes, garages, service stations and other sources of sand, soil, and oil shall install effective sand, soil, and oil interceptors. These interceptors shall be sized to effectively remove sand, soil, and oil at the expected flow rates. The interceptors shall be cleaned on a regular basis to prevent impact upon the wastewater collection and treatment system. Owners whose interceptors are deemed to be ineffective by the superintendent may be asked to change the cleaning frequency or to increase the size of the interceptors. Owners or operators of washing facilities will prevent the inflow of rainwater into the sanitary sewers.

(d) Laundries. Commercial laundries shall be equipped with an interceptor with a wire basket or similar device, removable for cleaning, that prevents passage into the sewer system of solids  $\frac{1}{2}$  inch or larger in size such as strings, rags, buttons, or other solids detrimental to the system.

(e) Control equipment. The equipment of facilities installed to control FOG, food waste, sand and soil, must be designed in accordance with the Standard Plumbing Code and Tennessee Department of Environment and Conservation engineering standards. Underground equipment shall be tightly sealed to prevent inflow of rainwater and easily accessible to allow regular maintenance. Control equipment shall be maintained by the owner or operator of the facility so as to prevent a stoppage of the public sewer, and the accumulation of FOG in the lines, pump stations and treatment plant. If the city is required to clean out the public sewer lines as a result of a stoppage resulting from poorly maintained control equipment, the property owner shall be required to refund the labor, equipment, materials and overhead costs to the city. Nothing in this subsection shall be construed to prohibit or restrict any other remedy the city has under this chapter, or state or federal law.

The city retains the right to inspect and approve installation of control equipment.

(f) The superintendent may use industrial wastewater discharge permits under § 18-206 to regulate the discharge of fat, oil and grease.

(4) Protection of treatment plant influent. The pretreatment coordinator shall monitor the treatment works influent for each parameter in Table A--Plant Protection Criteria. Industrial users shall be subject to reporting and monitoring requirements regarding these parameters as set forth in this chapter. In the event that the influent at the POTW reaches or exceeds the levels established by Table A or subsequent criteria calculated as a result of changes in pass through limits issued by the Tennessee Department of Environment and Conservation, the pretreatment coordinator shall initiate technical studies to determine the cause of the influent violation and shall recommend to the city the necessary remedial measures, including, but not limited to, recommending the establishment of new or revised pretreatment levels for these parameters. The pretreatment coordinator shall also recommend changes to any of these criteria in the event that: the POTW effluent standards are changed, there are changes in any applicable law or regulation affecting same, or changes are needed for more effective operation of the POTW.

Table C--Surcharge and Maximum Limits

Parameter	Surcharge Limit	Maximum Concentration
Total Kjeldahl Nitrogen (TKN)		
Oil & Grease		
MBAS		
BOD		
COD		
Suspended Solids		

(5) Federal categorical pretreatment standards. Upon the promulgation of the federal categorical pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under this chapter for sources in that subcategory, shall immediately supersede the limitations imposed under this chapter. The pretreatment coordinator shall notify all affected users of the applicable reporting requirements under 40 CFR, section 403.12.

(6) Right to establish more restrictive criteria. No statement in this chapter is intended or may be construed to prohibit the pretreatment coordinator from establishing specific wastewater discharge criteria more restrictive where wastes are determined to be harmful or destructive to the

facilities of the POTW or to create a public nuisance, or to cause the discharge of the POTW to violate effluent or stream quality standards, or to interfere with the use or handling of sludge, or to pass through the POTW resulting in a violation of the NPDES permit, or to exceed industrial pretreatment standards for discharge to municipal wastewater treatment systems as imposed or as may be imposed by the Tennessee Department of Environment and Conservation and/or the United States Environmental Protection Agency.

(7) Accidental discharges. (a) Protection from accidental discharge. All industrial users shall provide such facilities and institute such procedures as are reasonably necessary to prevent or minimize the potential for accidental discharge into the POTW of waste regulated by this chapter from liquid or raw material storage areas, from truck and rail car loading and unloading areas, from in-plant transfer or processing and materials handling areas, and from diked areas or holding ponds of any waste regulated by this chapter. Detailed plans showing the facilities and operating procedures shall be submitted to the pretreatment coordinator before the facility is constructed.

The review and approval of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility to provide the protection necessary to meet the requirements of this chapter.

(b) Notification of accidental discharge. Any person causing or suffering from any accidental discharge shall immediately notify the pretreatment coordinator in person, or by the telephone to enable countermeasures to be taken by the pretreatment coordinator to minimize damage to the POTW, the health and welfare of the public, and the environment.

This notification shall be followed, within five (5) days of the date of occurrence, by a detailed written statement describing the cause of the accidental discharge and the measures being taken to prevent future occurrence.

Such notification shall not relieve the user of liability for any expense, loss, or damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this chapter or state or federal law.

(c) Notice to employees. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure. In lieu of placing notices on bulletin boards, the users may submit an approved SPIC. Each user shall annually certify to the pretreatment coordinator compliance with this subsection.

18-208. Application for domestic wastewater connection and industrial wastewater discharge permits. (1) Application for discharge of domestic wastewater. All users or prospective users which generate domestic wastewater shall make application to the superintendent for connection to the municipal wastewater treatment system. Applications shall be required from all new dischargers as well as for any existing discharger desiring additional service. Connection to the city sewer shall not be made until the application is received and approved by the superintendent, the building sewer is installed in accordance with § 18-201 of this chapter and an inspection has been performed by the superintendent or his representative.

The receipt by the city of a prospective customer's application for connection shall not obligate the city to render the connection. If the service applied for cannot be supplied in accordance with this chapter and the city's rules and regulations and general practice, the connection charge will be refunded in full, and there shall be no liability of the city to the applicant for such service.

(2) Industrial wastewater discharge permits. (a) General requirements. All industrial users proposing to connect to or contribute to the POTW shall obtain a wastewater discharge permit before connecting to or contributing to the POTW. All existing industrial users connected to or contributing to the POTW shall acquire a permit within one hundred eighty (180) days after the effective date of this chapter.

(b) Applications. Applications for wastewater discharge permits shall be required as follows:

(i) Users required to obtain a wastewater discharge permit shall complete and file with the pretreatment coordinator, an application on a prescribed form accompanied by the appropriate fee. Existing users shall apply for a wastewater contribution permit within sixty (60) days after the effective date of this chapter, and proposed new users shall apply at least sixty (60) days prior to connecting to or contributing to the POTW.

(ii) The application shall be in the prescribed form of the city and shall include, but not be limited to the following information: name, address, and SIC number of applicant; wastewater volume; wastewater constituents and characteristic, including but not limited to those mentioned in §§ 18-207(1) and (2) discharge variations--daily, monthly, seasonal and thirty (30) minute peaks; a description of all chemicals handled on the premises, each product produced by type, amount, process or processes and rate of production, type and amount of raw materials, number and type of employees, hours of operation, site plans, floor plans, mechanical and plumbing plans and details showing all sewers and appurtenances by size, location and

elevation; a description of existing and proposed pretreatment and/or equalization facilities and any other information deemed necessary by the pretreatment coordinator.

(iii) Any user who elects or is required to construct new or additional facilities for pretreatment shall as part of the application for wastewater discharge permit submit plans, specifications and other pertinent information relative to the proposed construction to the pretreatment coordinator for approval. 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.

(iv) If additional pretreatment and/or operations and maintenance will be required to meet the pretreatment standards, the application shall include the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. For the purpose of this subsection, "pretreatment standard," shall include either a national pretreatment standard or a pretreatment standard imposed by § 18-207 of this chapter.

(v) The city will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the city may issue a wastewater discharge permit subject to terms and conditions provided herein.

(vi) The receipt by the city 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 city's 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.

(vii) The pretreatment coordinator will act only on applications containing all the information required in this section. Persons who have filed incomplete applications will be notified by the pretreatment coordinator that the application is deficient and the nature of such deficiency and will be given thirty (30) days to correct the deficiency. If the deficiency is not corrected within thirty (30) days or within such extended period as allowed by the local administrative officer, the local administrative officer shall



deny the application and notify the applicant in writing of such action.

(c) Permit conditions. Wastewater discharge permits shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges and fees established by the city.

(i) Permits shall contain the following:

(A) Statement of duration;

(B) Provisions of transfer;

(C) Effluent limitations on volume, concentration, and time of discharge, based on 40 CFR 403, categorical standards, local limits, and state and local law;

(D) Self-monitoring, sampling, reporting, notification, record keeping, identification of pollutants to be monitored, sampling location, sampling frequency, sample type;

(E) Statement of applicable civil and criminal penalties for violations of pretreatment standards and the requirements of any applicable compliance schedule. Such schedules shall not extend the compliance date beyond the applicable federal deadlines;

(F) Prohibition of bypasses.

(ii) Additionally, permits may contain the following:

(A) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;

(B) Requirements for installation and maintenance of inspections and sampling facilities;

(C) Compliance schedules;

(D) Requirements for submission of technical reports or discharge reports;

(E) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the city, and affording city access thereto;

(F) Requirements for notification of the city sixty (60) days prior to implementing any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system, and of any changes in industrial processes that would affect wastewater quality or quantity;

(G) Requirements for notification of slug discharged and spill control plan;

(H) Effluent mass loading restrictions;

(I) Other conditions as deemed appropriate by the city to ensure compliance with this chapter.

(d) Permit revision. Within nine (9) months of the promulgation of a national categorical pretreatment standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. A user with an existing wastewater discharge permit shall submit to the pretreatment coordinator within one hundred eighty (180) days after the promulgation of an applicable federal categorical pretreatment standard the information required by §§ 18-208(2)(b)(ii) and (iii).

(e) Permit modification. The terms and conditions of the permit may be subject to modification by the pretreatment coordinator during the term of the permit as limitations or requirements are modified or other just cause exists. The user shall be informed of any proposed changes in this permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(f) Permits duration. Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of one hundred eighty (180) days prior to the expiration of the user's existing permit.

(g) Permit transfer. Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the written approval of the city. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit. The permit holder must provide the new owner with a copy of the current permit.

(h) Revocation of permit. Any permit issued under the provisions of this chapter is subject to be modified, suspended, or revoked in whole or in part during its term for cause including, but not limited to, the following:

(i) Violation of any terms or conditions of the wastewater discharge permit or other applicable federal, state, or local law or regulation.

(ii) Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts.

(iii) A change in:

(A) Any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge;

(B) Strength, volume, or timing of discharges;

(C) Addition or change in process lines generating wastewater.

(iv) Intentional failure of a user to accurately report the discharge constituents and characteristics or to report significant changes in plant operations or wastewater characteristics.

(3) Confidential information. All information and data on a user obtained from reports, questionnaire, permit application, permits and monitoring programs and from inspection shall be available to the public or any governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the pretreatment coordinator that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets of the users.

When requested by the person furnishing the report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available to governmental agencies for use; related to this chapter or the 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 pretreatment coordinator as confidential shall not be transmitted to any governmental agency or to the general public by the pretreatment coordinator until and unless prior and adequate notification is given to the user.

18-209. Industrial user monitoring, inspection reports, records access, and safety. (1) Monitoring facilities. The installation of a monitoring facility shall be required for all industrial users. A monitoring facility shall be a manhole or other suitable facility approved by the pretreatment coordinator.

When in the judgment of the pretreatment coordinator, there is a significant difference in wastewater constituents and characteristics produced by different operations of a single user the pretreatment coordinator may require that separate monitoring facilities be installed for each separate source of discharge.

Monitoring facilities that are required to be installed shall be constructed and maintained at the user's expense. The purpose of the facility is to enable inspection, sampling and flow measurement of wastewater produced by a user. If sampling or metering equipment is also required by the pretreatment coordinator, it shall be provided and installed at the user's expense.

The monitoring facility will normally be required to be located on the user's premises outside of the building. The pretreatment coordinator may, however, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street right-of-way with the approval of the public agency having jurisdiction of that right-of-way and located so that it will not be obstructed by landscaping or parked vehicles.

There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

(2) Inspection and sampling. The city may inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the city or their representative ready access at all reasonable times to all parts of the premises for the purpose of inspection, sampling, records examination or in the performance of any of their duties. The 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.

(3) Compliance date report. Within one hundred eighty (180) days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to pretreatment standards and requirements shall submit to the pretreatment coordinator a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user facility which are limited by such pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional operations and maintenance and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the industrial user, and certified to by a professional engineer registered to practice engineering in Tennessee.

(4) Periodic compliance reports. (a) Any user subject to a pretreatment standard, after the compliance date of such pretreatment standard, or, in the case of a new source, after commencement of the discharge into the POTW, shall submit to the pretreatment coordinator by the end of the months of March and September, or according to permit requirements, unless required more frequently in the pretreatment standard or by the pretreatment coordinator, a report indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards and requirements.

In addition, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow. At the discretion of the pretreatment coordinator and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the pretreatment coordinator may agree to alter the months during which the above reports are to be submitted.

(b) The pretreatment coordinator may impose mass limitations on users where the imposition of mass limitations are appropriate. In such cases, the report required by subsection (a) of this section shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user.

(c) The reports required by this section shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration or production and mass when requested by the pretreatment coordinator of pollutants contained therein which are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed in the wastewater discharge permit or the pretreatment standard. All analysis shall be performed in accordance with procedures established by the administrator pursuant to section 304(g) of the Act and contained in 40 CFR 136, and amendments thereto. Sampling shall be performed in accordance with techniques approved by the administrator.

(5) Maintenance of records. Any industrial user subject to the reporting requirements established in this section shall maintain records of all information resulting from any monitoring activities required by this section. Such records shall include for all samples:

- (a) The date, exact place, method, and time of sampling and the names of the persons taking the samples;
- (b) The dates analyses were performed;
- (c) Who performed the analyses;
- (d) The analytical techniques/methods used; and
- (e) The results of such analyses.

Any industrial user subject to the reporting requirement established in this section shall be required to retain for a minimum of three (3) years all records of monitoring activities and results (whether or not such monitoring activities are required by this section) and shall make such records available for inspection and copying by the pretreatment coordinator, Director of the Division of Water Pollution Control, Tennessee Department of Environment and Conservation or the Environmental Protection Agency. This period of retention shall be extended during the course of any unresolved litigation regarding the industrial user or when requested by the pretreatment coordinator, the approval authority, or the Environmental Protection Agency.

(6) Safety. While performing the necessary work on private properties, the pretreatment coordinator or duly authorized employees of the 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 the city employees and the city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the monitoring and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions.

(7) New sources. New sources of discharges to the POTW shall have in full operation all pollution control equipment at start up of the industrial process and be in full compliance of effluent standards within ninety (90) days of start up of the industrial process.

(8) Reporting violations. If sampling performed by the industrial user indicates effluent violations the user must notify the pretreatment coordinator within twenty-four (24) hours of becoming aware of the violation and repeat the analysis within thirty (30) days of becoming aware of the violation, unless the POTW has monitored between the sample date and the day when the results of the violation are received, or if the POTW monitors at least once per month, or if the user is on a monthly sample schedule.

18-210. Enforcement and abatement. (1) Complaints; notification of violation; orders.

(a) (i) Whenever the local administrative officer has reason to believe that a violation of any provision of the pretreatment program of the Cowan Water Department or orders of the local hearing authority issued pursuant thereto has occurred, is occurring, or is about to occur, the local administrative officer may cause a written complaint to be served upon the alleged violator or violators.

(ii) The complaint shall specify the provision or provisions of the pretreatment program or order alleged to be violated or about to be violated and the facts alleged to constitute a violation thereof, may order that necessary corrective action be taken within a reasonable time to be prescribed in such order, and shall inform the violators of the opportunity for a hearing before the local hearing authority.

(iii) Any such order shall become final and not subject to review unless the person or persons named therein request by written petition a hearing before the local hearing authority as provided in § 18-210(2), no later than thirty (30) days after the date such order is served; provided, that the local hearing authority may review such final order on the same grounds upon which a court of the state may review default judgments.

(iv) Notification of violation. Notwithstanding the provisions of subsections (i) through (iii), whenever the

pretreatment coordinator finds that any user has violated or is violating this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment requirements, the city or its agent may serve upon said user a written notice of violation. Within fifteen (15) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the pretreatment coordinator. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the city to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(b) (i) When the local administrative officer finds that a user has violated or continues to violate this chapter, wastewater discharge permits, any order issued hereunder, or any other pretreatment standard or requirement, he may issue one of the following orders. These orders shall not be prerequisite to taking any other action against the user.

(A) Compliance order. An order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the specified time stated, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a federal pretreatment standard or requirement, nor does a compliance order release the user of liability for any violation, including any continuing violation.

(B) Cease and desist order. An order to the user directing it to cease all such violations and directing it to immediately comply with all requirements and take such remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

(C) Consent order. Assurances of voluntary compliance, or other documents establishing an agreement with the user responsible for noncompliance, including

specific action to be taken by the user to correct the noncompliance within a time period specified in the order.

(D) Emergency order. (1) Whenever the local administrative officer finds that an emergency exists imperatively requiring immediate action to protect the public health, safety, or welfare, the health of animals, fish or aquatic life, a public water supply, or the facilities of the POTW, the local administrative officer may, without prior notice, issue an order reciting the existence of such an emergency and requiring that such action be taken as the local administrative officer deems necessary to meet the emergency.

(2) If the violator fails to respond or is unable to respond to the order, the local administrative officer may take such emergency action as the local administrative officer deems necessary, or contract with a qualified person or persons to carry out the emergency measures. The local administrative officer may assess the person or persons responsible for the emergency condition for actual costs incurred by the local administrative officer in meeting the emergency.

(ii) Appeals from orders of the local administrative officer.

(A) Any user affected by any order of the local administrative officer in interpreting or implementing the provisions of this chapter, may file with the local administrative officer a written request for reconsideration within thirty (30) days of such order, setting forth in detail the facts supporting the user's request for reconsideration.

(B) If the ruling made by the local administrative officer is unsatisfactory to the person requesting reconsideration, he may, within thirty (30) days, file a written petition with the local hearing authority as provided in subsection (2). The local administrative officer's order shall remain in effect during the period of reconsideration.

(c) Except as otherwise expressly provided, any notice, complaint, order or other instrument issued by or under authority of this section may be served on any person affected thereby personally, by the local administrative officer or any person designated by the local administrative officer, or such service may be made in accordance with Tennessee statutes authorizing service of process in civil action. Proof of service shall be filed in the office of the local administrative officer.



(2) Hearings. (a) Any hearing or rehearing brought before the local hearing authority shall be conducted in accordance with the following:

(i) Upon receipt of a written petition from the alleged violator pursuant to this subsection, the local administrative officer shall give the petitioner thirty (30) days written notice of the time and place of the hearing, but in no case shall such hearing be held more than sixty (60) days from the receipt of the written petition, unless the local administrative officer and the petitioner agree to a postponement;

(ii) The hearing herein provided may be conducted by the local hearing authority at a regular or special meeting. A quorum of the local hearing authority must be present at the regular or special meeting in order to conduct the hearing herein provided;

(iii) A verbatim record of the proceedings of such hearings shall be taken and filed with the local hearing authority, together with the findings of fact and conclusions of law made pursuant to subsection (a)(vi). The transcript so recorded shall be made available to the petitioner or any party to a hearing upon payment of a charge set by the local administrative officer to cover the costs of preparation;

(iv) In connection with the hearing, the chair shall issue subpoenas in response to any reasonable request by any party to the hearing requiring the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing. In case of contumacy or refusal to obey a notice of hearing or subpoena issued under this section, the chancery court of the county in which the pretreatment agency is located shall have jurisdiction upon the application of the local hearing authority or the local administrative officer to issue an order requiring such person to appear and testify or produce evidence as the case may require, and any failure to obey such order of the court may be punished by such court as contempt;

(v) Any member of the local hearing authority may administer oaths and examine witnesses;

(vi) On the basis of the evidence produced at the hearing, the local hearing authority shall make findings of fact and conclusions of law and enter such decisions and orders as, in its opinion, will best further the purposes of the pretreatment program and shall give written notice of such decisions and orders to the alleged violator. The order issued under this subsection shall be issued no later than thirty (30) days following the close of the hearing by the person or persons designated by the chair;

(vii) The decision of the local hearing authority shall become final and binding on all parties unless appealed to the courts as provided in subsection (b); and

(viii) Any person to whom an emergency order is directed pursuant to § 18-210(1) shall comply therewith immediately, but on petition to the local hearing authority shall be afforded a hearing as soon as possible, but in no case shall such hearing be held later than three (3) days from the receipt of such petition by the local hearing authority.

(b) An appeal may be taken from any final order or other final determination of the local hearing authority by any party, including the pretreatment agency, who is or may be adversely affected thereby, to the chancery court pursuant to the common law writ of certiorari set out in Tennessee Code Annotated, § 27-8-101, within sixty (60) days from the date such order or determination is made.

(c) Show cause hearing. Notwithstanding the provisions of subsections (a) or (b), the pretreatment coordinator may order any user which causes or contributes to violation(s) of this chapter, wastewater discharge permits, or orders issued hereunder, or any other pretreatment standard or requirements, to appear before the local administrative officer and show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any authorized representative of the user. Whether or not the user appears as ordered, immediate enforcement action may be pursued following the hearing date. A show cause hearing shall not be prerequisite for taking any other action against the user. A show cause hearing may be requested by the discharger prior to revocation of a discharge permit or termination of service.

(3) Violations--civil penalty.

(a) (i) Any person including, but not limited to, industrial users, who does any of the following acts or omissions shall be subject to a civil penalty of up to ten thousand dollars (\$10,000) per day for each day during which the act or omission continues or occurs:

- (A) Unauthorized discharge, discharging without a permit;
- (B) Violates an effluent standard or limitation;
- (C) Violates the terms or conditions of a permit;
- (D) Fails to complete a filing requirement;

(E) Fails to allow or perform an entry, inspection, monitoring or reporting requirement;

(F) Fails to pay user or cost recovery charges; or

(G) Violates a final determination or order of the local hearing authority or the local administrative officer.

(ii) Any civil penalty shall be assessed in the following manner:

(A) The local administrative officer may issue an assessment against any person or industrial user responsible for the violation;

(B) Any person or industrial user against whom an assessment has been issued may secure a review of such assessment by filing with the local administrative officer a written petition setting forth the grounds and reasons for the violator's objections and asking for a hearing in the matter involved before the local hearing authority and, if a petition for review of the assessment is not filed within thirty (30) days after the date the assessment is served, the violator shall be deemed to have consented to the assessment and it shall become final;

(C) Whenever any assessment has become final because of a person's failure to appeal the assessment, the local administrative officer may apply to the appropriate court for a judgment and seek execution of such judgment and the court, in such proceedings, shall treat a failure to appeal such assessment as a confession of judgment in the amount of the assessment;

(D) In assessing the civil penalty the local administrative officer may consider the following factors:

(1) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;

(2) Damages to the pretreatment agency, including compensation for the damage or destruction of the facilities of the publicly owned treatment works, and also including any penalties, costs and attorneys' fees incurred by the pretreatment agency as the result of the illegal activity, as well as the expenses involved in enforcing this section and the costs involved in rectifying any damages;

(3) Cause of the discharge or violation;

(4) The severity of the discharge and its effect upon the facilities of the publicly owned

treatment works and upon the quality and quantity of the receiving waters;

(5) Effectiveness of action taken by the violator to cease the violation;

(6) The technical and economic reasonableness of reducing or eliminating the discharge; and

(7) The economic benefit gained by the violator; and

(E) The local administrative officer may institute proceedings for assessment in the chancery court of the county in which all or part of the pollution or violation occurred, in the name of the pretreatment agency.

(iii) The local hearing authority may establish by regulation a schedule of the amount of civil penalty which can be assessed by the local administrative officer for certain specific violations or categories of violations.

(iv) Assessments may be added to the user's next scheduled sewer service charge and the local administrative officer shall have such other collection remedies as may be available for other service charges and fees.

(b) Any civil penalty assessed to a violator pursuant to this section may be in addition to any civil penalty assessed by the commissioner for violations of Tennessee Code Annotated, § 69-3-115(a)(1)(F). However, the sum of penalties imposed by this section and by Tennessee Code Annotated, § 69-3-115(a) shall not exceed ten thousand dollars (\$10,000) per day for each day during which the act or omission continues or occurs.

(4) Assessment for noncompliance with program permits or orders.

(a) The local administrative officer may assess the liability of any polluter or violator for damages to the city resulting from any person's or industrial user's pollution or violation, failure, or neglect in complying with any permits or orders issued pursuant to the provisions of the pretreatment program or this section.

(b) If an appeal from such assessment is not made to the local hearing authority by the polluter or violator within thirty (30) days of notification of such assessment, the polluter or violator shall be deemed to have consented to the assessment, and it shall become final.

(c) Damages may include any expenses incurred in investigating and enforcing the pretreatment program or this section, in removing, correcting, and terminating any pollution, and also compensation for any actual damages caused by the pollution or violation.

(d) Whenever any assessment has become final because of a person's failure to appeal within the time provided, the local

administrative officer may apply to the appropriate court for a judgment, and seek execution on such judgment. The court, in such proceedings, shall treat the failure to appeal such assessment as a confession of judgment in the amount of the assessment.

(5) Judicial proceedings and relief. The local administrative officer may initiate proceedings in the chancery court of the county in which the activities occurred against any person or industrial user who is alleged to have violated or is about to violate the pretreatment program, this section, or orders of the local hearing authority or local administrative officer. In such action, the local administrative officer may seek, and the court may grant, injunctive relief and any other relief available in law or equity.

(6) Termination of discharge. In addition to the revocation of permit provisions in § 18-208(2)(h) of this chapter, any user that violates the following conditions, wastewater discharge permits, or orders issued hereunder, is subject to discharge termination.

- (a) Violation of wastewater discharge permit conditions;
- (b) Failure to accurately report the wastewater constituents and characteristics of its discharge;
- (c) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge;
- (d) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling;
- (e) Violation of the pretreatment standards in the general discharge prohibitions in § 18-207 of this chapter;
- (f) Failure to properly submit an industrial waste survey when requested by the pretreatment coordination superintendent.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause, as provided in subsection (2)(c) above, why the proposed action should not be taken.

(7) Disposition of damage payments and penalties--special fund. All damages and/or penalties assessed and collected under the provisions of this section shall be placed in a special fund by the pretreatment agency and allocated and appropriated for the administration of its wastewater fund or combined water and wastewater fund.

18-211. Fees and billing. (1) Purpose. It is the purpose of this chapter to provide for the equitable recovery of costs from users of the city's wastewater treatment system including costs of operation, maintenance, administration, bond service costs, capital improvements, depreciation, and equitable cost recovery of EPA administered federal wastewater grants.

(2) Types of charges and fees. The charges and fees as established in the city's schedule of charges and fees may include but are not limited to:

- (a) Inspection fee and tapping fee;
- (b) Fees for applications for discharge;

- (c) Sewer use charges;
- (d) Surcharge fees (see Table C, § 18-207);
- (e) Industrial wastewater discharge permit fees;
- (f) Fees for industrial discharge monitoring; and
- (g) Other fees as the city may deem necessary.

(3) Fees for application for discharge. A fee may be charged when a user or prospective user makes application for discharge as required by § 18-208 of this chapter.

(4) Inspection fee and tapping fee. An inspection fee and tapping fee for a building sewer installation shall be paid to the city's sewer department at the time the application is filed.

(5) Sewer user charges.<sup>1</sup> The city council shall establish monthly rates and charges for the use of the wastewater system and for the services supplied by the wastewater system.

(6) Industrial wastewater discharge permit fees. A fee may be charged for the issuance of an industrial wastewater discharge fee in accordance with § 18-208 of this chapter.

(7) Fees for industrial discharge monitoring. Fees may be collected from industrial users having pretreatment or other discharge requirements to compensate the city for the necessary compliance monitoring and other administrative duties of the pretreatment program.

18-212. Validity. This chapter and its provisions shall be valid for all service areas, regions, and sewage works under the jurisdiction of the city.

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<sup>1</sup>Such rates are reflected in administrative ordinances or resolutions, which are of record in the office of the city recorder.

## CHAPTER 3

CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.<sup>1</sup>

## SECTION

- 18-301. Definitions.
- 18-302. Standards.
- 18-303. Construction, operation, and supervision.
- 18-304. Statement required.
- 18-305. Inspections required.
- 18-306. Right of entry for inspections.
- 18-307. Correction of existing violations.
- 18-308. Use of protective devices.
- 18-309. Unpotable water to be labeled.
- 18-310. Violations.

18-301. Definitions. The following definitions and terms shall apply in the interpretation and enforcement of this chapter:

(1) "Public water supply." The waterworks system furnishing water to the city for general use and which supply is recognized as the public water supply by the Tennessee Department of Environment and Conservation.

(2) "Cross connection." Any physical arrangement whereby the public water supply is connected, directly or indirectly, with any other water supply system, whether 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 imparting contamination to the public water supply as a result of backflow. Bypass arrangements, jumper connections, removable sections, swivel or change-over devices through which, or because of which, backflow could occur are considered to be cross connections;

(3) "Auxiliary intake." Any piping connection or other device whereby water may be secured from a source other than that normally used.

(4) "Bypass." Any system of piping or other arrangement whereby the water may be diverted around any part or portion of a water purification plant.

(5) "Interconnection." Any system of piping or other arrangement whereby the public water supply is connected directly with a sewer, drain, conduit, pool, storage reservoir, or other device which does or may contain sewage or other waste or liquid which would be capable of imparting contamination to the public water supply.

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<sup>1</sup>Municipal code reference

Plumbing and related codes: title 12.

(6) "Person." Any and all persons, natural or artificial, including any individual, firm, or association, and any municipal or private corporation organized or existing under the laws of this or any other state or country.

18-302. Standards. The municipal public water supply is to comply with Tennessee Code Annotated, §§ 68-221-701 through 68-221-719 as well as the Rules and Regulations for Public Water Supplies, legally adopted in accordance with this code, which pertain to cross connections, auxiliary intakes, bypasses, and interconnections, and establish an effective ongoing program to control these undesirable water uses.

18-303. Construction, operation, and supervision. It shall be unlawful for any person to cause a cross connection to be made, or allow one to exist for any purpose whatsoever, unless the construction and operation of same have been approved by the Tennessee Department of Environment and Conservation and the operation of such cross connection, auxiliary intake, bypass or interconnection is at all times under the direct supervision of the water department superintendent or his representative.

18-304. Statement required. Any person whose premises are supplied with water from the public water supply and who also has on the same premises a separate source of water supply, or stores water in an uncovered or unsanitary storage reservoir from which the water stored therein is circulated through a piping system, shall file with the water department superintendent a statement of the non-existence of unapproved or unauthorized cross connections, auxiliary intakes, bypasses, or interconnections. Such statement shall also contain an agreement that no cross connection, auxiliary intake, bypass, or interconnection will be permitted upon the premises.

18-305. Inspections required. It shall be the duty of the water department superintendent to cause inspections to be made of all properties served by the public water supply where cross connections with the public water supply are deemed possible. The frequency of inspections and reinspection, based on potential health hazards involved, shall be established by the water department superintendent and as approved by the Tennessee Department of Environment and Conservation.

18-306. Right of entry for inspections. The water department superintendent or his authorized representative shall have the right to enter, at any reasonable time, any property served by a connection to the public water supply for the purpose of inspecting the piping system or systems therein for cross connections, auxiliary intakes, bypasses, or interconnections. On request, the owner, lessee, or occupant of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or



systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross connections.

18-307. Correction of existing violations. Any person who now has cross connections, auxiliary intakes, bypasses, or interconnections in violation of the provisions of this chapter shall be allowed a reasonable time within which to comply with the provisions of this chapter. After a thorough investigation of existing conditions and an appraisal of the time required to complete the work, the amount of time shall be designated by the water department superintendent.

The failure to correct conditions threatening the safety of the public water system as prohibited by this chapter and the Tennessee Code Annotated, § 68-221-711, within a reasonable time and within the time limits set by the water department superintendent shall be grounds for denial of water service. If proper protection has not been provided after a reasonable time, the water department superintendent shall give the customer legal notification that water service is to be discontinued and shall physically separate the public water supply from the customer's on-site piping system in such a manner that the two systems cannot again be connected by an unauthorized person.

Where cross connections, interconnections, auxiliary intakes, or bypasses are found that constitute an extreme hazard of immediate concern of contaminating the public water system, the management of the water supply shall require that immediate corrective action be taken to eliminate the threat to the public water system. Immediate steps shall be taken to disconnect the public water supply from the on-site piping system unless the imminent hazard(s) is (are) corrected immediately.

18-308. Use of protective devices. Where the nature of use of the water supplied a premises by the water department is such that it is deemed

(1) Impractical to provide an effective air-gap separation,  
 (2) That the owner and/or occupant of the premises cannot, or is not willing, to demonstrate to the water department superintendent, or his designated representative, that the water use and protective features of the plumbing are such as to propose no threat to the safety or potability of the water supply,

(3) That the nature and mode of operation within a premises are such that frequent alterations are made to the plumbing,

(4) There is a likelihood that protective measures may be subverted, altered, or disconnected, the water department superintendent or his designated representative, shall require the use of an approved protective device on the service line serving the premises to assure that any contamination that may originate in the customer's premises is contained therein. The protective device shall be a reduced pressure zone type backflow preventer approved by the Tennessee Department of Environment and Conservation as to manufacture,

model, and size. The method of installation of backflow protective devices shall be approved by the water department superintendent prior to installation and shall comply with the criteria set forth by the Tennessee Department of Environment and Conservation. The installation shall be at the expense of the owner or occupant of the premises.

Personnel of the municipal public water supply shall have the right to inspect and test the device or devices on an annual basis or whenever deemed necessary by the water department superintendent or his designated representative. Water service shall not be disrupted to test the device without the knowledge of the occupant of the premises.

Where the use of water is critical to the continuance of normal operations or protection of life, property, or equipment, duplicate units shall be provided to avoid the necessity of discontinuing water service to test or repair the protective device or devices. Where it is found that only one unit has been installed and the continuance of service is critical, the water department superintendent shall notify, in writing, the occupant of the premises of plans to discontinue water service and arrange for a mutually acceptable time to test and/or repair the device. The water department superintendent shall require the occupant of the premises to make all repairs indicated promptly, to keep the unit(s) working properly, and the expense of such repairs shall be borne by the owner or occupant of the premises. Repairs shall be made by qualified personnel acceptable to the water department superintendent.

The failure to maintain backflow prevention devices in proper working order shall be grounds for discontinuing water service to a premises. Likewise, the removal, bypassing, or altering of the protective devices or the installation thereof so as to render the devices ineffective shall constitute grounds for discontinuance of water service. Water service to such premises shall not be restored until the customer has corrected or eliminated such conditions or defects to the satisfaction of the water department superintendent.

18-309. Unpotable water to be labeled. In order that the potable water supply made available to premises served by the public water supply shall be protected from possible contamination as specified herein, any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as:

WATER UNSAFE

FOR DRINKING

The minimum acceptable sign shall have black letters at least one-inch high located on a red background.

18-310. Violations. The requirements contained herein shall apply to all premises served by the city water system whether located inside or outside the corporate limits and are hereby made a part of the conditions required to be met for the city to provide water services to any premises. Such action, being essential for the protection of the water distribution system against the entrance of contamination which may render the water unsafe healthwise, or otherwise undesirable, shall be enforced rigidly without regard to location of the premises, whether inside or outside the corporate limits.

Any person who neglects or refuses to comply with any of the provisions of this chapter shall be subject to a penalty under the general penalty provision of this code. Each day a violation is allowed to occur shall be a separate offense.

TITLE 19

ELECTRICITY AND GAS

CHAPTER

1. ELECTRICITY.

CHAPTER 1

ELECTRICITY

SECTION

19-101. To be furnished by Duck River Electric Membership Corporation.

19-101. To be furnished by Duck River Electric Membership Corporation. Electricity shall be provided to the City of Cowan and its inhabitants by the Duck River Electric Membership Corporation. The rights, powers, duties, and obligations of the City of Cowan and its inhabitants, are stated in the agreements between the parties.<sup>1</sup>

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<sup>1</sup>The agreements are of record in the office of the city recorder.

**TITLE 20**

**MISCELLANEOUS**

**CHAPTER**

**1. CITY CEMETERY.**

**CHAPTER 1**

**CITY CEMETERY**

**SECTION**

- 20-101. Cemetery rules.
- 20-102. Purchase of lots.
- 20-103. Single grave section.
- 20-104. Price per grave lot.
- 20-105. Sale of lots in certain sections.
- 20-106. Number of lots in certain sections.
- 20-107. Opening fee.
- 20-108. Resodding.

**20-101. Cemetery rules.** (1) The following rules are hereby established:

- (a) City police are to lock the cemetery gates at 8:00 P.M. and unlock them at 5:00 A.M.
- (b) The CMCA will hold an annual cleaning each year during the week before Easter at which time all old floral arrangements will be removed.
- (c) Owners will be given a set of rules and regulations when they purchase lots.
- (d) Rules and regulations will be permanently posted at the cemetery.
- (e) No permanent landscaping alteration may be made to any gravesite, i.e. planting shrubs, flowers, trees, or other vegetation.
- (f) Flower arrangements will be limited to a maximum of three (3) per grave site beginning thirty (30) days after burial.
- (g) Permanent gravesite ornaments, other than the headstone and footstone, are prohibited.
- (h) Temporary gravesite ornaments must be removed thirty (30) days after burial.
- (i) Any temporary ornaments, including flower arrangements, must be placed on the gravestone or on the ground within three feet (3') of the gravestone or marker.

(j) Edging of gravesites with vegetation, bricks, paving stones, or any other material is strictly prohibited upon final passage of the ordinance comprising this section. Edging already in place will be considered to be "grandfathered" and will not be affected by this section.

(2) Be it further ordained that violators of any part of this section will be notified by the city through certified mail that they have thirty (30) days to remedy the violation or file a written appeal to the city council. Any appeal shall be heard at the next city council meeting. When a violation is not remedied within the specified time and no appeal is filed, the City of Cowan Street Department shall remedy the violation under the supervision of the Cowan Police Department. The violator will be assessed a fifty dollar (\$50.00) fine and the cost of labor and materials. (1961 Code, § 11-102, as replaced by Ord. #05-06-01, Aug. 2005, and Ord. #08-11-01, Jan. 2009)

**20-102. Purchase of lots.** Those desiring to purchase lots in the cemetery are requested to confer with the city recorder, who will advise them of lots available, so selection may be made. Lots purchased are conveyed by a certificate of ownership and are secured to the purchasers and their families and heirs as a burial place forever. Lot owners are prohibited from selling or transferring their lots without first obtaining the consent of the city recorder. All applications to sell or transfer must be accompanied with evidence showing good and sufficient cause for making such sale or transfer. The City of Cowan will not recognize as lot owners any person or persons whose names do not appear upon the cemetery records. The possession of a certificate of ownership is not sufficient evidence of the transfer of the lot from the original owner. When a transfer is approved, the original certificate will be cancelled and a new one issued. A reasonable charge will be made for all transfers. (1961 Code, § 11-103)

**20-103. Single grave section.** Suitable ground in the cemetery has been set apart and designated as single grave sections. When a single grave is purchased, it remains the property of the purchaser for all time. However, credit will be given any purchaser of the single grave who wishes to surrender it and purchase a lot. (1961 Code, § 11-104)

**20-104. Price per grave plot.** A price of two hundred fifty dollars (\$250.00) is hereby established for each grave plot sold in the Cowan Montgomery Cemetery, and this price per grave plot shall apply whether the said lots be sold singly or in multiples of two (2) or more. (Ord. #02-05-03, July 2002)

**20-105. Sale of lots in certain sections.** Sales will be made by lots of twenty (20) feet square, which will contain eight (8) graves or 10 x 20 feet, which

will contain four (4) graves, in sections Q to X, inclusive, according to a plat on file in the city recorder's office. (1961 Code, § 11-01, modified)

**20-106. Number of lots in certain section.** As many as fifteen (15) lots or as few as one (1) lot may be sold to any person in sections Y and Z, according to the above plat. (1961 Code, § 11-02)

**20-107. Opening fee.** A charge of twenty-five dollars (\$25.00) is hereby established for each grave opened and closed in the Cowan Montgomery Cemetery, and this charge shall be paid by the funeral director, establishment, person, firm, or corporation in charge of opening and closing a grave. (Ord. #32, Nov. 1972)

**20-108. Resodding.** When any grave is opened in the Cowan Montgomery Cemetery, the sod thereon shall be cut and set aside and replaced when the grave is closed, and this shall be done by the person, firm, corporation, funeral director, or establishment in charge of opening and closing a grave. (Ord. #32, Nov. 1972)

## APPENDIX A

OCCUPATIONAL SAFETY AND HEALTH PROGRAM FOR  
EMPLOYEES OF THE CITY OF COWAN

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I. Purpose and coverage. The purpose of this plan is to provide guidelines and procedures for implementing the Occupational Safety and Health Program for the employees of the City of Cowan.

This plan is applicable to all employees, part-time or full-time, seasonal or permanent.

The City of Cowan in electing to update and maintain an effective occupational safety and health program for its employees:

- a. Provide a safe and healthful place and condition of employment.
- b. Require the use of safety equipment, personal protective equipment, and other devices where reasonably necessary to protect employees.
- c. Make, keep, preserve, and make available to the Commissioner of Labor and Workforce Development, his designated representatives, or persons within the



Department of Labor and Workforce Development to whom such responsibilities have been delegated, including the Director of the Division of Occupational Safety and Health, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.

- d. Consult with the Commissioner of Labor and Workforce Development or his designated representative with regard to the adequacy of the form and content of such records.
- e. Consult with the Commissioner of Labor and Workforce Development regarding safety and health problems which are considered to be unusual or peculiar and are such that they cannot be resolved under an occupational safety and health standard promulgated by the state.
- f. Assist the Commissioner of Labor and Workforce Development or his monitoring activities to determine program effectiveness and compliance with the occupational safety and health standards.
- g. Make a report to the Commissioner of Labor and Workforce Development annually, or as may otherwise be required, including information on occupational accidents, injuries, and illnesses and accomplishments and progress made toward achieving the goals of the occupational safety and health program.
- h. Provide reasonable opportunity for and encourage the participation of employees in the effectuation of the objectives of this program, including the opportunity to make anonymous complaints concerning conditions or practices which may be injurious to employees' safety and health. (Ord. #759, July 2003)

II. Definitions. For the purposes of this program, the following definitions apply:

- a. "Act" or "TOSHA Act" shall mean the Tennessee Occupational Safety and Health Act of 1972.
- b. "Appointing authority" means any official or group of officials of the employer having legally designated powers of appointment, employment, or removal therefrom for a specific department, board, commission, division, or other agency of this employer.
- c. "Chief executive officer" means the chief administrative official, county judge, county chairman, mayor, city manager, general manager, etc., as may be applicable.
- d. "Commissioner of Labor and Workforce Development" means the chief executive officer of the Tennessee Department of Labor and

Workforce Development. This includes any person appointed, designated, or deputized to perform the duties or to exercise the powers assigned to the Commissioner of Labor and Workforce Development.

- e. "Director of occupational safety and health" or "director" means the person designated by the establishing ordinance, or executive order to perform duties or to exercise powers assigned so as to plan, develop, and administer the Occupational Safety and Health Program for the employees of the City of Cowan.
- f. "Employee" means any person performing services for this employer and listed on the payroll of this employer, either as part-time, seasonal, or permanent. It also includes any persons normally classified as volunteers provided such persons received remuneration of any kind for their services. This definition shall not include independent contractors, their agents, servants, and employees.
- g. "Employer" means the City of Cowan and includes each administrative department, board, commission, division, or other agency of the City of Cowan.
- h. "Establishment" or "worksite" means a single physical location under the control of this employer where business is conducted, services are rendered, or industrial type operations are performed.
- i. "Governing body" means the County Quarterly Court, board of commissioners, city council, board of governors, etc., whichever may be applicable to the local government, government agency, or utility to which this plan applies.
- j. "Imminent danger" means any conditions or practices in any place of employment which are such that a hazard exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such hazard can be eliminated through normal compliance enforcement procedures.
- k. "Inspector(s)" means the individual(s) appointed or designated by the director of occupational safety and health to conduct inspections provided for herein. If no such compliance inspector(s) is appointed, inspections shall be conducted by the director of occupational safety and health.
- l. "Person" means one or more individual, partnership, association, corporation, business trust, or legal representative of any organized group of persons.
- m. "Serious injury" or "harm" means that type of harm that would cause permanent or prolonged impairment of the body in that:
  - 1. A part of the body would be permanently removed (e.g., amputation of an arm, leg, finger(s); loss of an eye) or rendered functionally useless or substantially

reduced in efficiency on or off the job (e.g., leg shattered so severely that mobility would be permanently reduced), or

2. A part of an internal body system would be inhibited in its normal performance or function to such a degree as to shorten life or cause reduction in physical or mental efficiency (e.g., lung impairment causing shortness of breath).

On the other hand, simple fractures, cuts, bruises, concussions, or similar injuries would not fit either of these categories and would not constitute serious physical harm.

- n. "Standard" means an occupational safety and health standard promulgated by the Commissioner of Labor and Workforce Development in accordance with Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972 which requires conditions or the adoption or the use of one or more practices, means, methods, operations, or processes or the use of equipment or personal protective equipment necessary or appropriate to provide safe and healthful conditions and places of employment. (Ord. #759, July 2003)

III. Employer's rights and duties. Rights and duties of the employer shall include, but are not limited to, the following provisions:

- a. Employer shall furnish to each employee conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.
- b. Employer shall comply with occupational safety and health standards and regulations promulgated pursuant to Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972.
- c. Employer shall refrain from any unreasonable restraint on the right of the Commissioner of Labor and Workforce Development to inspect the employers place(s) of business. Employer shall assist the Commissioner of Labor and Workforce Development in the performance of their monitoring duties by supplying or by making available information, personnel, or aids reasonably necessary to the effective conduct of the monitoring activity.
- d. Employer is entitled to participate in the development of standards by submission of comments on proposed standards, participation in hearing on proposed standards, or by requesting the development of standards on a given issue under section 6 of the Tennessee Occupational Safety and Health Act of 1972.
- e. Employer is entitled to request an order granting a variance from an occupational safety and health standard.

- f. Employer is entitled to protection of its legally privileged communication.
- g. Employer shall inspect all worksites to insure the provisions of this program are complied with and carried out.
- h. Employer shall notify and inform any employee who has been or is being exposed in a biologically significant manner to harmful agents or material in excess of the applicable standard and of corrective action being taken.
- i. Employer shall notify all employees of their rights and duties under this program. (Ord. #759, July 2003)

IV. Employee's rights and duties. Rights and duties of employees shall include, but are not limited to, the following provisions:

- a. Each employee shall comply with occupational safety and health act standards and all rules, regulations, and orders issued pursuant to this program and the Tennessee Occupational Safety and Health Act of 1972 which are applicable to his or her own actions and conduct.
- b. Each employee shall be notified by the placing of a notice upon bulletin boards, or other places of common passage, of any application for a permanent or temporary order granting the employer a variance from any provision of the TOSHA Act or any standard or regulation promulgated under the Act.
- c. Each employee shall be given the opportunity to participate in any hearing which concerns an application by the employer for a variance from a standard or regulation promulgated under the Act.
- d. Any employee who may be adversely affected by a standard or variance issued pursuant to the Act or this program may file a petition with the Commissioner of Labor and Workforce Development or whoever is responsible for the promulgation of the standard or the granting of the variance.
- e. Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by any applicable standard shall be provided by the employer with information on any significant hazards to which they are or have been exposed, relevant symptoms, and proper conditions for safe use or exposure. Employees shall also be informed or corrective action being taken.
- f. Subject to regulations issued pursuant to this program, any employee or authorized representative of employees shall be given the right to request an inspection and to consult with the director or inspector at the time of the physical inspection of the worksite.

- g. Any employee may bring to the attention of the director any violation or suspected violations of the standards or any other health or safety hazards.
- h. No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceeding or inspection under or relating to this program.
- i. Any employee who believes that he or she has been discriminated against or discharged in violation of subsection (h) of this section may file a complaint alleging such discrimination with the director. Such employee may also, within thirty (30) days after such violation occurs, file a complaint with the Commissioner of Labor and Workforce Development alleging such discrimination.
- j. Nothing in this or any other provisions of this program shall be deemed to authorize or require any employee to undergo medical examination, immunization, or treatment for those who object thereto on religious grounds, except where such is necessary for the protection of the health or safety of others, or when a medical examination may be reasonably required for performance of a specific job.
- k. Employees shall report any accident, injury, or illness resulting from their job, however minor it may seem to be, to their supervisor or the director within twenty-four (24) hours after the occurrence. (Ord. #759, July 2003)

V. Administration. a. The director of occupational safety and health is designated to perform duties or to exercise powers assigned so as to administer this occupational safety and health program.

- 1. The director may designate person or persons as he deems necessary to carry out his powers, duties, and responsibilities under this program.
- 2. The director may delegate the power to make inspections, provided procedures employed are as effective as those employed by the director.
- 3. The director shall employ measures to coordinate, to the extent possible, activities of all departments to promote efficiency and to minimize any inconveniences under this program.
- 4. The director may request qualified technical personnel from any department or section of government to assist him in making compliance inspections, accident investigations, or as he may otherwise deem necessary and appropriate in order to carry out his duties under this program.

5. The director shall prepare the report to the Commissioner of Labor and Workforce Development required by subsection (g) of section 1 of this plan.
  6. The director shall make or cause to be made periodic and follow-up inspections of all facilities and worksites where employees of this employer are employed. He shall make recommendations to correct any hazards or exposures observed. He shall make or cause to be made any inspections required by complaints submitted by employees or inspections requested by employees.
  7. The director shall assist any officials of the employer in the investigation of occupational accidents or illnesses.
  8. The director shall maintain or cause to be maintained records required under section VIII of this plan.
  9. The director shall, in the eventuality that there is a fatality or an accident resulting in the hospitalization of three or more employees insure that the Commissioner of Labor and Workforce Development receives notification of the occurrence within eight (8) hours.
- b. The administrative or operational head of each department, division, board, or other agency of this employer shall be responsible for the implementation of this occupational safety and health program within their respective areas.
1. The administrative or operational head shall follow the directions of the director on all issues involving occupational safety and health of employees as set forth in this plan.
  2. The administrative or operational head shall comply with all abatement orders issued in accordance with the provisions of this plan or request a review of the order with the director within the abatement period.
  3. The administrative or operational head should make periodic safety surveys of the establishment under his jurisdiction to become aware of hazards or standards violations that may exist and make an attempt to immediately correct such hazards or violations.
  4. The administrative or operational head shall investigate all occupational accidents, injuries, or illnesses reported to him. He shall report such accidents, injuries, or illnesses to the director along with his findings and/or recommendations in accordance with Appendix V of this plan. (Ord. #759, July 2003)

VI. Standards authorized. The standards adopted under this program are the applicable standards developed and promulgated under section VI(6) of

the Tennessee Occupational Safety and Health Act of 1972 or which may, in the future, be developed and promulgated. Additional standards may be promulgated by the governing body of this employer as that body may deem necessary for the safety and health of employees. (Ord. #759, July 2003)

VII. Variance procedure. The director may apply for a variance as a result of a complaint from an employee or of his knowledge of certain hazards or exposures. The director should definitely believe that a variance is needed before the application for a variance is submitted to the Commissioner of Labor and Workforce Development.

The procedure for applying for a variance to the adopted safety and health standards is as follows:

- a. The application for a variance shall be prepared in writing and shall contain:
  1. A specification of the standard or portion thereof from which the variance is sought.
  2. A detailed statement of the reason(s) why the employer is unable to comply with the standard supported by representations by qualified personnel having first-hand knowledge of the facts represented.
  3. A statement of the steps the employer has taken and will take (with specific date) to protect employees against the hazard covered by the standard.
  4. A statement of when the employer expects to comply and what steps have or will be taken (with dates specified) to come into compliance with the standard.
  5. A certification that the employer has informed employees, their authorized representative(s), and/or interested parties by giving them a copy of the request, posting a statement summarizing the application (to include the location of a copy available for examination) at the places where employee notices are normally posted and by other appropriate means. The certification shall contain a description of the means actually used to inform employees and that employees have been informed of their right to petition the Commissioner of Labor and Workforce Development.
- b. The application for a variance should be sent to the Commissioner of Labor and Workforce Development by registered or certified mail.
- c. The Commissioner of Labor and Workforce Development will review the application for a variance and may deny the request or issue an order granting the variance. An order granting a variance shall be issued only if it has been established that:

1. The employer:
  - i. Is unable to comply with the standard by the effective date because of unavailability of professional or technical personnel or materials and equipment required or necessary construction or alteration of facilities or technology.
  - ii. Has taken all available steps to safeguard employees against the hazard(s) covered by the standard.
  - iii. Has an effective program for coming into compliance with the standard as quickly as possible.
2. The employee is engaged in an experimental program as described in subsection (b), section 13 of the Act.
- d. A variance may be granted for a period of no longer than is required to achieve compliance or one (1) year, whichever is shorter.
- e. Upon receipt of an application for an order granting a variance, the commissioner to whom such application is addressed may issue an interim order granting such a variance for the purpose of permitting time for an orderly consideration of such application. No such interim order may be effective for longer than one hundred eighty (180) days.
- f. The order or interim order granting a variance shall be posted at the worksite and employees notified of such order by the same means used to inform them of the application for said variance (see subsection (a)(5) of this section). (Ord. #759, July 2003)

VIII. Recordkeeping and reporting. a. Recording and reporting of all occupational accident, injuries, and illnesses shall be in accordance with instructions and on forms prescribed in the booklet, Recordkeeping Requirements Under the Occupational Safety and Health Act of 1970, (revised 2003) or as may be prescribed by the Tennessee Department of Labor and Workforce Development.

- b. The position responsible for recordkeeping is shown on the Safety and Health Organizational Chart, Appendix V to this plan.
- c. Details of how reports of occupational accidents, injuries, and illnesses will reach the recordkeeper are specified by Accident Reporting Procedures, Appendix V to this plan. (Ord. #759, July 2003)

IX. Employee complaint procedure. If any employee feels that he is assigned to work in conditions which might affect his health, safety, or general welfare at the present time or at any time in the future, he should report the condition to the director of occupational safety and health.

- a. The complaint should be in the form of a letter and give details on the condition(s) and how the employee believes it affects or will



affect his health, safety, or general welfare. The employee should sign the letter but need not do so if he wishes to remain anonymous (see subsection (h) of section 1 of this plan).

- b. Upon receipt of the complaint letter, the director will evaluate the condition(s) and institute any corrective action, if warranted. Within ten (10) working days following the receipt of the complaint, the director will answer the complaint in writing stating whether or not the complaint is deemed to be valid and if no, why not, what action has been or will be taken to correct or abate the condition(s), and giving a designated time period for correction or abatement. Answers to anonymous complaints will be posted upon bulletin boards or other places of common passage where the anonymous complaint may be reasonably expected to be seen by the complainant for a period of three (3) working days.
- c. If the complainant finds the reply not satisfactory because it was held to be invalid, the corrective action is felt to be insufficient, or the time period for correction is felt to be too long, he may forward a letter to the chief executive officer or to the governing body explaining the condition(s) cited in his original complaint and why he believes the answer to be inappropriate or insufficient.
- d. The chief executive officer or a representative of the governing body will evaluate the complaint and will begin to take action to correct or abate the condition(s) through arbitration or administrative sanctions or may find the complaint to be invalid. An answer will be sent to the complainant within ten (10) working days following receipt of the complaint or the next regularly scheduled meeting of the governing body following receipt of the complaint explaining decisions made and action taken or to be taken.
- e. After the above steps have been followed and the complainant is still not satisfied with the results, he may then file a complaint with the Commissioner of Labor and Workforce Development. Any complaint filed with the Commissioner of Labor and Workforce Development in such cases shall include copies of all related correspondence with the director and the chief executive officer or the representative of the governing body.
- f. Copies of all complaint and answers thereto will be filed by the director who shall make them available to the Commissioner of Labor and Workforce Development or his designated representative upon request. (Ord. #759, July 2003)

X. Education and training. a. Director and/or compliance inspector(s).

1. Arrangements will be made for the director and/or compliance inspector(s) to attend training seminars, workshops, etc., conducted by the State of Tennessee or other agencies.
  2. Reference materials, manuals, equipment, etc., deemed necessary for use in conducting compliance inspections, conducting local training, wiring technical reports, and informing officials, supervisors, and employees of the existence of safety and health hazards will be furnished.
- b. All employees (including managers and supervisory personnel).

A suitable safety and health training program for employees will be established. This program will, at a minimum:

1. Instruct each employee in the recognition and avoidance of hazards or unsafe conditions and of standards and regulations applicable to the employees work environment to control or eliminate any hazards, unsafe conditions, or other exposures to occupational illness or injury (such as falls, electrocution, crushing injuries [e.g., trench cave-ins], and being struck by material or equipment).
2. Instruct employees who are required to handle poisons, acids, caustics, explosives, and other harmful or dangerous substances (including carbon monoxide and chlorine) in the safe handling and use of such items and make them aware of the potential hazards, proper handling procedures, personal protective measures, personal hygiene, etc., which may be required.
3. Instruct employees who may be exposed to environments where harmful plants or animals are present, of the hazards of the environment, how to best avoid injury or exposure, and the first aid procedures to be followed in the event of injury or exposure.
4. Instruct employees required to handle or use flammable liquids, gases, or toxic materials in their safe handling and use and make employees aware of specific requirements contained in subparts H and M and other applicable subparts of TOSHA Act Standards (1910 and/or 1926).
5. Instruct employees on hazards and dangers of confined or enclosed spaces.
  - i. Confined or enclosed space means space having a limited means of egress and which is subject to the accumulation of toxic or flammable contaminants or

- has an oxygen deficient atmosphere. Confined or enclosed spaces include, but are not limited to, storage tanks, boilers, ventilation or exhaust ducts, sewers, underground utility accesses, tunnels, pipelines, and open top spaces more than four feet (4') in depth such as pits, tubs, vaults, and vessels.
- ii. Employees will be given general instruction on hazards involved, precautions to be taken, and on use of personal protective and emergency equipment required. They shall also be instructed on all specific standards or regulations that apply to work in dangerous or potentially dangerous areas.
  - iii. The immediate supervisor of any employee who must perform work in a confined or enclosed space shall be responsible for instructing employees on danger of hazards which may be present, precautions to be taken, and use of personal protective and emergency equipment, immediately prior to their entry into such an area and shall require use of appropriate personal protective equipment. (Ord. #759, July 2003)

XI. General inspection procedures. It is the intention of the governing body and the responsible officials to have an occupational safety and health program that will insure the welfare of employees. In order to be aware of hazards, periodic inspections must be performed. These inspections will enable the finding of hazards or unsafe conditions or operations that will need correction in order to maintain safe and healthful worksites. Inspections made on a pre-designated basis may not yield the desired results. Inspections will be conducted, therefore, on a random basis at intervals not to exceed thirty (30) calendar days.

- a. In order to carry out the purposes of this program, the director and/or compliance inspector(s), if appointed, is authorized:
  - 1. To enter at any reasonable time, any establishment, facility, or worksite where work is being performed by an employee when such establishment, facility, or worksite is under the jurisdiction of the employer and;
  - 2. To inspect and investigate during regular working hours and at other reasonable times, within reasonable limits, and in a reasonable manner, any such place of employment and all pertinent conditions, processes, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any supervisor, operator, agent, or employee working therein.

- b. If an imminent danger situation is found, alleged, or otherwise brought to the attention of the director or inspector during a routine inspection, he shall immediately inspect the imminent danger situation in accordance with section XII of this plan before inspecting the remaining portions of the establishment, facility, or worksite.
- c. An administrative representative of the employer and a representative authorized by the employees shall be given an opportunity to consult with and/or to accompany the director or inspector during the physical inspection of any worksite for the purpose of aiding such inspection.
- d. The right of accompaniment may be denied any person whose conduct interferes with a full and orderly inspection.
- e. The conduct of the inspection shall be such as to preclude unreasonable disruptions of the operation(s) of the workplace.
- f. Interviews of employees during the course of the inspection may be made when such interviews are considered essential to investigate techniques.
- g. Advance notice of inspections.
  - 1. Generally, advance notice of inspections will not be given as this precludes the opportunity to make minor or temporary adjustments in an attempt to create a misleading impression of conditions in an establishment.
  - 2. There may be occasions when advance notice of inspections will be necessary in order to conduct an effective inspection or investigation. When advance notice of inspection is given, employees of their authorized representative(s) will also be given notice of the inspection.
- h. The director need not personally make an inspection of each and every worksite once every thirty (30) days. He may delegate the responsibility for such inspections to supervisors of other personnel provided:
  - 1. Inspections conducted by supervisors or other personnel are at least as effective as those made by the director.
  - 2. Records are made of the inspections and of any discrepancies found and are forwarded to the director.
- i. The director shall maintain records of inspections to include identification of worksite inspected, date of inspection, description of violations of standards or other unsafe conditions or practices found, and corrective action taken toward abatement. Said inspection records shall be subject to review by the Commissioner of Labor and Workforce Development or his authorized representative. (Ord. #759, July 2003)

XII. Imminent danger procedures.

- a. Any discovery, any allegation, or any report of imminent danger shall be handled in accordance with the following procedures:
1. The director shall immediately be informed of the alleged imminent danger situation and he shall immediately ascertain whether there is a reasonable basis for the allegation.
  2. If the alleged imminent danger situation is determined to have merit by the director, he shall make or cause to be made an immediate inspection of the alleged imminent danger location.
  3. As soon as it is concluded from such inspection that conditions or practices exist which constitute an imminent danger, the director or compliance inspector shall attempt to have the danger corrected. All employees at the location shall be informed of the danger and the supervisor or person in charge of the worksite shall be requested to remove employees from the area, if deemed necessary.
  4. The administrative or operational head of the workplace in which the imminent danger exists, or his authorized representative, shall be responsible for determining the manner in which the imminent danger situation will be abated. This shall be done in cooperation with the director or compliance inspector and to the mutual satisfaction of all parties involved.
  5. The imminent danger shall be deemed abated if:
    - i. The imminence of the danger has been eliminated by removal of employees from the area of danger.
    - ii. Conditions or practices which resulted in the imminent danger have been eliminated or corrected to the point where an unsafe condition or practice no longer exists.
  6. A written report shall be made by or to the director describing in detail the imminent danger and its abatement. This report will be maintained by the director in accordance with subsection (i) of section XI of this plan.
- b. Refusal to abate.
1. Any refusal to abate an imminent danger situation shall be reported to the director and/or chief executive officer immediately.
  2. The director and/or chief executive officer shall take whatever action may be necessary to achieve abatement. (Ord. #759, July 2003)

XIII. Abatement orders and hearings.

- a. Whenever, as a result of an inspection or investigation, the director or compliance inspector(s) finds that a worksite is not in compliance with the standards, rules or regulations pursuant to this plan and is unable to negotiate abatement with the administrative or operational head of the worksite within a reasonable period of time, the director shall:
  1. Issue an abatement order to the head of the worksite.
  2. Post, or cause to be posted, a copy of the abatement order at or near each location referred to in the abatement order.
- b. Abatement orders shall contain the following information:
  1. The standard, rule, or regulation which was found to be violated.
  2. A description of the nature and location of the violation.
  3. A description of what is required to abate or correct the violation.
  4. A reasonable period of time during which the violation must be abated or corrected.
- c. At any time within ten (10) days after receipt of an abatement order, anyone affected by the order may advise the director in writing of any objections to the terms and conditions of the order. Upon receipt of such objections, the director shall act promptly to hold a hearing with all interested and/or responsible parties in an effort to resolve any objections. Following such hearing, the director shall, within three (3) working days, issue an abatement order and such subsequent order shall be binding on all parties and shall be final. (Ord. #759, July 2003)

XIV. Penalties.

- a. No civil or criminal penalties shall be issued against any official, employee, or any other person for failure to comply with safety and health standards or any rules or regulations issued pursuant to this program.
- b. Any employee, regardless of status, who willfully and/or repeatedly violates, or causes to be violated, any safety and health standard, rule, or regulation or any abatement order shall be subject to disciplinary action by the appointing authority. It shall be the duty of the appointing authority to administer discipline by taking action in one of the following ways as appropriate and warranted:
  1. Oral reprimand.
  2. Written reprimand.
  3. Suspension for three (3) or more working days.
  4. Termination of employment. (Ord. #759, July 2003)

XV. Confidentiality of privileged information. All information obtained by or reported to the director pursuant to this plan of operation or the legislation (ordinance, or executive order) enabling this occupational safety and health program which contains or might reveal information which is otherwise privileged shall be considered confidential. Such information may be disclosed to other officials or employees concerned with carrying out this program or when relevant in any proceeding under this program. Such information may also be disclosed to the Commissioner of Labor and Workforce Development or their authorized representatives in carrying out their duties under the Tennessee Occupational Safety and Health Act of 1972. (Ord. #759, July 2003)

XVI. Compliance with other laws not excused.

- a. Compliance with any other law, statute, ordinance, or executive order, as applicable, which regulates safety and health in employment and places of employment shall not excuse the employer, the employee, or any other person from compliance with the provisions of this program.
- b. Compliance with any provisions of this program or any standard, rule, regulation, or order issued pursuant to this program shall not excuse the employer, the employee, or any other person from compliance with the law, statute, ordinance, executive order, as applicable, regulating and promoting safety and health unless such law, statute, ordinance, or executive order, as applicable, is specifically repealed. (Ord. #759, July 2003)

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Signature; Director, Occupational Safety and Health

Date

APPENDIX I  
ORGANIZATIONAL CHART

City Hall -- 2 employees  
301 East Cumberland Street  
Cowan, TN 37318  
931-967-7318 or 931-967-2658

Street Department Shop -- 7 employees  
301 North Hodge Street  
Cowan, TN 37318  
931-967-0799

Police Department -- 6 employees  
106 North Cherry Street  
Cowan, TN 37318  
931-962-0110

Water Plant -- 3 employees  
106 Oak Street  
Cowan, TN 37318  
931-962-1922

Wastewater Treatment Plant -- 2 employees  
300 Looney Street  
Cowan, TN 37318  
931-967-1922

Cowan Branch Library -- 1 employee  
106 North Hodge Street  
Cowan, TN 37318  
931-968-9428

TOTAL NUMBER OF EMPLOYEES: 21



## OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN

### APPENDIX III

#### NOTICE TO ALL EMPLOYEES OF THE CITY OF COWAN

The Tennessee Occupational Safety and Health Act of 1972 provides job safety and health protection for Tennessee workers through the promotion of safe and healthful working conditions. Under a plan reviewed by the Tennessee Department of Labor and Workforce Development, this government, as an employer, is responsible for administering the Act to its employees. Safety and health standards are the same as state standards and jobsite inspections will be conducted to insure compliance with the Act.

Employees shall be furnished conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.

Each employee shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this program which are applicable to his or her own actions and conduct.

Each employee shall be notified by the placing upon bulletin boards or other places of common passage, of any application for a temporary variance from any standard or regulation.

Each employee shall be given the opportunity to participate in any hearing which concerns an application for a variance from a standard.

Any employee who may be adversely affected by a standard or variance issued pursuant to this program may file a petition with the director or city recorder.

Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by an applicable standard shall be notified by the employer and informed of such exposure and corrective action being taken.

Subject to regulations issued pursuant to this program, any employee or authorized representative(s) of employees shall be given the right to request an inspection.

No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceedings or inspection under, or relating to, this program.

Any employee who believes he or she has been discriminated against or discharged in violation of these sections may, within thirty (30) days after such violation occurs, have an opportunity to appear in a hearing before the city council for assistance in obtaining relief or to file a complaint with the commissioner of labor and workforce development alleging such discrimination.

A copy of the Occupational Safety and Health Program for the employees of the City of Cowan is available for inspection by any employee at the Cowan City Hall during regular office hours.

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Signature: Official Date

OCCUPATIONAL SAFETY AND HEALTH PLAN  
PROGRAM BUDGET

APPENDIX IV

1. Prorated portion of wages, salaries, etc., for program administration and support.
2. Office space and office supplies.
3. Safety and health educational materials and support for education and training.
4. Safety devices for personnel safety and health.
5. Equipment modifications.
6. Equipment additions (facilities)
7. Protective clothing and equipment (personnel).
8. Safety and health instruments.
9. Funding for projects to correct hazardous conditions.
10. Reserve fund for the program.
11. Contingencies and miscellaneous.

TOTAL ESTIMATED PROGRAM FUNDING

Estimate of Total Budget for the City of Cowan      \$10,000.00

OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN  
ACCIDENT REPORTING PROCEDURES

APPENDIX V

Note: All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported by phone to the commissioner of labor and workforce development within eight (8) hours.

There are six important steps required by the OSHA recordkeeping system:

1. Obtain a report on every injury/illness requiring medical treatment (other than first aid).
2. Record each injury/illness on the OSHA Form No. 300 according to the instructions provided.
3. Prepare a supplementary record of occupational injuries and illnesses for recordable cases either on OSHA Form No. 301 or on worker's compensation reports giving the same information.
4. Every year, prepare the annual summary (OSHA Form No. 300A); post it no later than February 1, and keep it posted until April 30.
5. Retain these records for at least 5 years.
6. Complete the Survey of Occupational Injuries/Illness and mail it to Labor Research and Statistics, when requested.

The four (4) procedures listed below are based upon the size of the work force and relative complexity of the organization. The approximate size of the organization for which each procedure is suggested is indicated in parenthesis in the left hand margin at the beginning, i.e., (1-15), (16-50), (51-250), and (251 Plus), and the figures relate to the total number of employees including the Chief Executive Officer but excluding the governing body (County Court, City Council, Board of Directors, etc.).

- (1-15) Employees shall report all accidents, injuries, or illnesses directly to the Director as soon as possible, but not later than twenty-four (24) hours, of their occurrence. Such reports may be verbal or in writing. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the Director and/or recordkeeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The Director will insure completion of required reports and records in accordance with Section VIII of the basic plan.

- (16-50) Employees shall report all accidents, injuries, or illnesses to their supervisor as soon as possible, but not later than two (2) hours after their occurrence. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the Director and/or recordkeeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The supervisor will investigate the accident or illness, complete an accident report, and forward the accident report to the Director and/or recordkeeper within twenty-four (24) hours of the time the accident or injury occurred or the time of the first report of the illness.
- (51-250) Employees shall report all accidents, injuries, or illnesses to their supervisor as soon as possible, but not later than two (2) hours after their occurrence. The supervisor will provide the Director and/or recordkeeper with the name of the injured or ill employee and a brief description of the accident or illness by telephone as soon as possible, but not later than four (4) hours, after the accident or injury occurred or the time of the first report of the illness. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the Director and/or recordkeeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The supervisor will then make a thorough investigation of the accident or illness (with assistance of the Director or Compliance Inspector, if necessary) and will complete a written report on the accident or illness and forward it to the Director within seventy-two (72) hours after the accident, injury, or first report of illness and will provide one (1) copy of the written report to the recordkeeper.
- (51-Plus) Employees shall report all accidents, injuries, or illnesses to their supervisors as soon as possible, but not later than two (2) hours after their occurrence. The supervisor will provide the administrative head of the department with a verbal or telephone report of the accident as soon as possible, but not later than four (4) hours, after the accident. If the accident involves loss of consciousness, a fatality, broken bones, severed body member, or third degree burns, the Director will be notified by telephone immediately and will be given the name of the injured, a description of the injury, and a brief description of how the accident occurred. The supervisor or the administrative head of the accident within seventy-two (72) hours after the accident

occurred (four (4) hours in the event of accidents involving a fatality or the hospitalization of three (3) or more employees).

Since a Workers' Compensation Form C20 or OSHA NO. 301 Form must be completed, all reports submitted in writing to the person responsible for recordkeeping shall include the following information as a minimum:

1. Accident location, if different from employer's mailing address and state whether accident occurred on premises owned or operated by employer.
2. Name, social security number, home address, age, sex, and occupation (regular job title) of injured or ill employee.
3. Title of the department or division in which the injured or ill employee is normally employed.
4. Specific description of what the employee was doing when injured.
5. Specific description of how the accident occurred.
6. A description of the injury or illness in detail and the part of the body affected.
7. Name of the object or substance which directly injured the employee.
8. Date and time of injury or diagnosis of illness.
9. Name and address of physician, if applicable.
10. If employee was hospitalized, name and address of hospital.
11. Date of report.

NOTE: A procedure such as one of those listed above or similar information is necessary to satisfy Item Number 6 listed under PROGRAM PLAN in Chapter IV, Part IV of the Tennessee Occupational Safety and Health Plan. This information may be submitted in flow chart form instead of in narrative form if desired. These procedures may be modified in any way to fit local situations as they have been prepared as a guide only.

Generally, the more simple an accident reporting procedure is, the more effective it is. Please select the one procedure listed above, or prepare a similar procedure or flow chart, which most nearly fits what will be the most effective for your local situation.

ORDINANCE NO. 05-05-02

AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE CITY OF COWAN, TENNESSEE.

WHEREAS some of the ordinances of the City of Cowan are obsolete, and

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

WHEREAS the Board of Mayor and Councilmen of the City of Cowan, 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 "Cowan Municipal Code," now, therefore:

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COWAN, TENNESSEE, THAT:

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

**Section 2. Ordinances repealed.** All ordinances of a general, continuing, and permanent application or of a penal nature not contained in the municipal code are hereby repealed from and after the effective date of said code, except as hereinafter provided in Section 3 below.

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

direction of travel, passing, stopping, yielding, standing, or parking on any specifically named public street or way; any right or franchise granted by the city; any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments therefor; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; nor shall such repeal affect any ordinance annexing territory to the city.

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

**Section 5. Penalty clause.** Unless otherwise specified in a title, chapter or section of the municipal code, including the codes and ordinances adopted by reference, whenever in the municipal code any act is prohibited or is made or declared to be a civil offense, or whenever in the municipal code the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision of the municipal code shall be punished by a civil penalty of not more than fifty dollars (\$50.00) and costs for each separate violation; provided, however, that the imposition of a civil penalty under the provisions of this municipal code shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the municipal code or other applicable law. In any place in the municipal code the term "it shall be a misdemeanor" or "it shall be an offense" or "it shall be unlawful" or similar terms appears in the context of a penalty provision of this municipal code, it shall mean "it shall be a civil offense." Anytime the word "fine" or similar term appears in the context of a penalty provision of this municipal code, it shall mean "a civil penalty."<sup>1</sup>

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 workhouse, to the extent that his physical condition shall permit, until such civil penalty is

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<sup>1</sup>State law reference

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



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

**Section 8. Construction of conflicting provisions.** Where any provision of the municipal code is in conflict with any other provision in said code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

**Section 9. Code available for public use.** A copy of the municipal code shall be kept available in the recorder's office for public use and inspection at all reasonable times.

Section 10. Date of effect. This ordinance shall take effect from and after its final passage, the public welfare requiring it, and the municipal code, including all the codes and ordinances therein adopted by reference, shall be effective on and after that date.

Passed 1st reading, May 10, 2005.

Passed 2nd reading, June 14, 2005.

Passed 3<sup>rd</sup> reading, July 12, 2005.

Raymond Stuchlik  
Mayor

Becky Sherman  
Recorder