THE

DAYTON

MUNICIPAL

CODE

Prepared by the

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

in cooperation with the

TENNESSEE MUNICIPAL LEAGUE

September 2004

Change 8
December 4, 2023

CITY OF DAYTON, TENNESSEE

MAYOR

Hurley Marsh

VICE MAYOR

Steve E. Randolph

COUNCILMEMBERS

Bobby J. Doss

Billy C. Graham

Caleb Yawn

CITY MANAGER

David Shinn

RECORDER

Michelle Horton

PREFACE

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

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

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

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

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

(1) That all ordinances relating to subjects treated in the code or which should be added to the code are adopted as amending, adding, or deleting specific chapters or sections of the code (see section 7 of the adopting ordinance).

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

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

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

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

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

Steve Lobertini
Codification Consultant

ORDINANCE ADOPTION PROCEDURES PRESCRIBED BY THE CITY CHARTER

Be it further enacted, That every ordinance shall be read two different days in open session before its adoption, and not less than one week shall elapse between the first and second reading, and any ordinance not so read shall be null and void.

An ordinance shall not take effect until ten days after the first passage thereof, except in case of an emergency ordinance. An emergency ordinance may take effect from the day of its final passage, provided it shall contain the statement that an emergency exists and shall specify with definiteness the facts and reasons constituting such an emergency.

The unanimous vote of all members of the Board present shall be required to pass an emergency ordinance.

No ordinance making a grant, renewal or extension of a franchise or other special privilege shall ever be passed as an emergency ordinance. No ordinance shall be amended except by a new ordinance. (Charter § 2-12)

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CHAPTER 1

CITY COUNCIL[2]

SECTION

1-101. Time and place of regular meetings. The city council shall hold one (1) or more regular monthly meetings, either on the first Monday of every month or if the first Monday of the month falls within two (2) days of a holiday then the meeting shall be held on the second Monday of the month or any other day of the week designated by the city council. The city council meeting shall begin five (5) minutes after the close of the Dayton School Board meeting or if the Dayton School Board does not meet at a time designated by the city manager. (1988 Code, § 1-101, as amended by Ord. #407, Aug. 2000)

1-102. Special meetings. Whenever, in the opinion of the mayor or city manager, or any two council members, the welfare of the city demands it, the

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

[2]Charter references
Elections: §§ 1-4, 1-5, 2-6.
Oath of office: §§ 1-10, 2-19, 2-23, 3-2.

mayor or the recorder shall call special meetings of the city council with at least twenty-four (24) hours written notice served personally on each council member, the city manager, and the recorder, or left at their usual place of residence. Each call for a special meeting shall set forth the character of the business to be discussed at the meeting and no other business shall be considered at the meeting.

An emergency meeting of the city council may be called at any time by all the council members signing a written waiver of notice. (1988 Code, § 1-102)

1-103. Order of business. At each meeting of the board of mayor and aldermen, the following regular order of business shall be observed unless dispensed with by a majority vote of the members present:

(1) Call to order by the mayor.

(2) Roll call by the recorder.

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

(4) Grievances from citizens.

(5) Communications from the mayor.

(6) Reports from the city manager, council members, committees and other officers.

(7) Old business.

(8) New business.

(9) Adjournment. (1988 Code, § 1-103)

1-104. General rules of order. The rules of order and parliamentary procedure contained in Roberts Rules of Order, newly revised, with newly revised meaning the latest edition of the publication of Roberts Rules of Order, shall govern the transaction of business by and before the city council at its meetings in all cases to which they are applicable and in which they are not inconsistent with provisions of the Charter or the Municipal Code of the City of Dayton, Tennessee. (1988 Code, § 1-104, as replaced by Ord. #695, July 2023 ***Ch8_12-04-23***)

CHAPTER 2

CODE OF ETHICS

SECTION

1-201. Applicability. This chapter is the code of ethics for personnel of the municipality. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the municipality. The words "municipal" and "municipality" include these separate entities. (as added by Ord. #475, Oct. 2006)

1-202. Definition of "personal interest." 1. For purposes of §§ 1-203 and 1-204, "personal interest" means:

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

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

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

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

3. In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter. (as added by Ord. #475, Oct. 2006)

1-203. 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. #475, Oct. 2006)

1-204. 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. #475, Oct. 2006)

1-205. Acceptance of gratuities, etc. An official or employee may not accept, directly or indirectly, any money, gift, gratuity, or other consideration or favor of any kind from anyone other than the municipality:

1. For the performance of an act, or rehiring from performance of an act, that he would be expected to perform, or refrain from performing, in the regular course of his duties; or
2. That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business. (as added by Ord. #475, Oct. 2006)

1-206. 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. #475, Oct. 2006)

1-207. Use of municipal time, facilities, etc. 1. An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to himself.

2. An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease that is determined by the governing body to be in the best interests of the municipality. (as added by Ord. #475, Oct. 2006)

1-208. Use of position of authority. 1. An official or employee may not make or attempt to make private purchases, for cash or otherwise, in the name of the municipality.

2. An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the municipality. (as added by Ord. #475, Oct. 2006)

1-209. Outside employment. An official or employee may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the municipal position or conflicts with any provision of the municipality's charter or any ordinance or policy. (as added by Ord. #475, Oct. 2006)

1-210. Ethics complaints. (1) An ethics committee is hereby created pursuant to the requirements set forth herein. Each committee member shall be at least twenty-one (21) years of age, a resident and citizen of the City of Dayton for a period of at least six (6) months preceding the appointment, and of good moral character. Said ethics committee members shall serve a one (1) year term, with the first term to begin on March 15, 2007. The ethics committee members may serve up to two successive terms before being replaced and, after the expiration of one year without serving, may be reappointed to the ethics committee. The ethics committee members shall be appointed by the Mayor for the City of Dayton, Tennessee.

Upon the written request of an official or employee potentially affected by a provision of this chapter, the ethics committee may render an oral or written advisory ethics based upon this chapter and other applicable law.

(2) (a) Except as otherwise provided in this subsection, the ethics committee shall investigate any credible complaint against an appointed official or employee charging any violation of this chapter, or may undertake an investigation on its own initiative when it acquires information indicating a possible violation and make recommendations for action to end or seek retribution for any activity that, in ethics committee's judgment, constitutes a violation of this code of ethics. All decisions made by the ethics committee herein shall be voted on by all three (3) members (full committee) and shall be passed by at least two affirmative votes of the three (3) members.

(b) The ethics committee may request that the governing body appoint the city attorney or hire another attorney, individual, or entity to act in place of an ethics committee member or the ethics committee when the ethics committee or one of its members 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 municipality's governing body,

the governing body shall either determine that the complaint has merit, determine that the complaint does not have merit, or determine that the complaint has merit to warrant further investigation. If the governing body determines that a complaint warrants further investigation, it shall authorize an investigation by the ethics committee or another individual or entity chosen by the governing body.

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

(4) When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation or a civil service policy, rule, or regulation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this code of ethics. (as added by Ord. #475, Oct. 2006, and replaced by Ord. #478, Jan. 2007)

1-211. Violations. An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the municipality's charter or other applicable law and in addition is subject to censure by the governing body. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (as added by Ord. #475, Oct. 2006)

TITLE 2

BOARDS AND COMMISSIONS, ETC.

CHAPTER

CHAPTER 1

BOARDS AND COMMITTEES

SECTION

2-101. Manner of appointment. The members of the boards and committees shall be appointed as designated by the appropriate ordinance, act or statute that created said committee. (1988 Code, § 1-1201)

2-102. Powers of board. All boards or committees created in regard to the City of Dayton shall have such powers as are conferred upon them by the instrument that created them or as may be additionally conferred upon them by the city council, if authorized. (1988 Code, § 1-1202)

2-103. Attendance. The various members of the boards and committees shall make every effort to attend all meetings so as to fulfill the duties required of them as members of said boards or committees, and any member missing three (3) consecutive meetings shall be removed from said board or committee as provided hereafter. (1988 Code, § 1-1203)

2-104. Filling vacancies. Vacancies shall be filled by the same manner which the member of the board or committee is appointed and any vacancy shall be communicated to the council as soon as possible or in a time as set forth hereafter. (1988 Code, § 1-1204)

2-105. Removal of members of boards or committees. (1) Any member of a board or committee may be removed as provided by § 1-14 of the Dayton City Charter.

(2) If a member of a board or committee misses three (3) consecutive meetings then the chairman or next succeeding official of said board or committee shall certify said fact to the city council within five (5) days from said meeting stating the name of the person, his/her position and the dates missed and said official shall at the same time notify the member who has missed three (3) consecutive meetings that his/her position is vacant and will be filled at the next meeting of the city council to be held as soon as possible but not earlier than fifteen (15) days from the date of the notice. The official removed may appear before the city council at said meeting and show cause, if any, why he/she should not be removed. The removed official shall be provided with the time and place of said meeting unless it is a regular meeting which falls after the fifteen (15) days of said notice and if so, the removed official shall appear at said regular meeting, otherwise, his removal shall be final.

(3) Failure of the removed official to appear at the designated meeting shall confirm his/her removal from said board or committee and should the removed official appear then the city council shall determine if he/she has presented sufficient evidence to justify his/her absence and so inform said official.

(4) Upon the official certifying the member as missing the required number of meetings the said member cannot sit on the board or committee until he/she is reappointed to said board or committee.

(5) If a member is removed then a successor shall be appointed as soon as possible according to the act, ordinance or statute that created said position. (1988 Code, § 1-1205)

CHAPTER 2

RECREATION BOARD[1]

SECTION

2-201. Creation of recreation board. (1) Pursuant to the provisions of Tennessee Code Annotated, § 12-24-101 et seq., there is hereby created a recreation board for the City of Dayton, consisting of five (5) persons, four (4) of whom shall be citizens and residents of the City of Dayton and one (1) of which may be a citizen and resident of Rhea County, Tennessee. The members of the recreation board shall serve for terms of five (5) years, or until their successors are appointed, except that the members of the board first appointed shall be appointed for such terms that the term of one (1) member shall expire annually thereafter.

(2) Any vacancy on the recreation board occurring otherwise, than by expiration of a term, shall be filled by the mayor only for the unexpired term of the person.

(3) The recreation board shall designate the person serving on said board who shall act as chairman thereof.

(4) Members of the board shall be appointed by the mayor and if at all possible be representatives of business and each sport that is to be supervised by the recreation board.

(5) Members of such board shall serve without pay.

(6) The members of the recreation board shall be subject to removal as set forth in § 2-105 of the Dayton Municipal Code. (1988 Code, § 1-201, as replaced by Ord. #550, July 2011)

2-202. Powers of board. (1) The recreation board shall have the power to, except as set forth herein, provide, establish, supervise, conduct and maintain a recreation system and facilities and to acquire by gift, purchase, condemnation of lease lands and buildings for such purposes.

(2) The recreation board is empowered to make, alter, amend or repeal rules and regulations for the protection, regulation and control of parks,

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[1]Municipal code reference

Enumeration of miscellaneous offenses prohibited in recreational areas: title 11, chapter 13.

preserves, parkways, playgrounds, recreation centers, and other property under their control. No rules and regulations adopted shall be contrary to, or inconsistent with, the laws of the State of Tennessee or the ordinances of the City of Dayton.

(a) Such rules and regulations shall be enforced by local law enforcement officials.

(b) Rules and regulations shall not take effect until ten (10) days after their adoption by the board, after their publication once a week for two (2) weeks in at least one (1) paper circulating in the county and after a copy thereof has been posted near each gate or principal entrance to the public ground to which they apply. All rules, after being so adopted and after notice is given, shall be subject to enforcement by a fine of not more than fifty ($50.00) dollars for each violation to be levied against any person found guilty of violating such rules and regulations.

(c) Copies of rules and regulations subject to such enforcement shall be available for public inspection or review at the Dayton Municipal Building.

(d) The recreation board shall be empowered, upon approval by the city commission, to establish a fee for any activity or for the display of any sign, billboard or advertisement device used in any of the areas in which the recreation board has authority.

(3) The responsibility and authority for designating any and all such recreation areas to be so utilized by the recreation board shall be and remain in the city council and the recreation board shall accordingly be without any authorities as to such matters.

(4) Employment and termination of personnel shall be controlled by the City of Dayton charter and not the recreation board. (1988 Code, § 1-202)

2-203. <u>Finances</u>. (1) The recreation board may accept any grant or devise of real estate or any gift or bequest of money or other personal property or any donation to be applied, principal or income, for either temporary or permanent use for playgrounds for recreation purposes, but if the acceptance thereof for such purpose will subject the municipality to additional expenses for improvement, maintenance or renewal, the acceptance of any grant or devise of real estate shall be subject to the approval of the Dayton city council. Money received for such purposes, unless otherwise provided by the terms of the gift or bequest, shall be deposited with the city recorder to the account of the recreation board or any account designated by the city recorder for the use of the recreation board, and the same shall be withdrawn and paid out in the same manner as money appropriated by the city for recreational purposes.

(2) All money or property so received by gift or bequest for recreational purposes shall be devoted exclusively to such purposes, and shall not be expended or in any manner appropriated by the City of Dayton for any other purpose. (1988 Code, § 1-203)

2-204. Limitation on creating debts. The recreation board shall be without any power or authority to incur any indebtedness. (1988 Code, § 1-204)

2-205. Recreation director. (1) There is hereby created the position of recreation director and said person shall be appointed as set forth in the Dayton city charter and serve at the will and pleasure thereof.

(2) The recreation director shall not be a member of the recreation board, but is a ex officio member without authority to vote.

(3) The appointment of the recreation director as a member of the recreation board shall in no way create a employment contract for said period of time but the recreation director shall be an "at will" employee of the City of Dayton. (1988 Code, § 1-205)

CHAPTER 3

UTILITIES GRANT PROGRAM AND BOARD OF DIRECTORS

SECTION

2-301. Creation and purpose of the Dayton Utilities Grant Program. Pursuant to Tennessee Code Annotated, § 7-34-115, et seq., and § 7-28-304, et seq., there is hereby created a Dayton Utilities Grant Program and Board of Directors for the purpose of the accumulation and disbursement of funds for charitable purposes, pursuant to Tennessee Code Annotated, § 7-34-115 and § 7-82-304, in the service area of the City of Dayton Utilities. This shall be accomplished by disbursement of funds for charitable purposes as defined in Tennessee Code Annotated, § 7-34-115 and § 7-82-304 to provide relief to the poor or underprivileged, to advance education or science, to address community deterioration, to provide community assistance, to assist in economic development, to provide for the erection of public buildings, monuments or works, to assist in historic preservation, or to promote social welfare through nonprofit or governmental organizations designed to accomplish any of the foregoing purposes. (Ord. #441, Jan. 2004)

2-302. Funding. Money to be accumulated and disbursed by the Dayton Utilities Grant Program shall come from donations of utility customers of the City of Dayton, Tennessee. The funds from the utilities customers of the City

of Dayton, Tennessee will be collected in accordance with rules and regulations adopted by the City Council for the City of Dayton, Tennessee and in accordance with state and federal laws and regulations, specifically Tennessee Code Annotated, § 7-34-115 and § 7-82-304. (Ord. #441, Jan. 2004)

2-303. Board of directors. 1. The initial Board of Directors of the Dayton Utilities Grant Program shall be composed of the five (5) members of the City Council for the City of Dayton, or their designees. Additionally, the City Council for the City of Dayton may appoint up to a maximum of four (4) additional board of directors at large from the Dayton Utilities service area, subject to the requirements in § 2-304, for a maximum total of nine (9) board of directors.

2. The term of office for any board of director that is also a member of the City Council for the City of Dayton, or a councilman's designee, shall be for that city councilman's term of office. The term of office for any board of director at large that is appointed by the City Council for the City of Dayton within the Dayton Utility service area shall be for a period of two (2) years.

3. A board of director appointed at large from the Dayton Utility service area may serve two (2) successive terms and thereafter may be re-appointed to the board after the lapse of a period of two (2) years. (Ord. #441, Jan. 2004)

2-304. Qualifications of board membership. A board member shall be at least twenty-one (21) years of age, a resident of the City of Dayton Utilities Service Area for a period of at least six (6) months preceding the appointment, and of good moral character. The board member must receive utility services from the Dayton Utilities and must live in the Dayton Utilities Service Area. Any questions concerning residency shall use those principles for determination of residence as set forth in Tennessee Code Annotated, § 2-2-122. (Ord. #441, Jan. 2004)

2-305. Selection of board of directors. The initial board of directors shall consist of the City Council for the City of Dayton, or their designees, and any appointments made by the city council in accordance with the terms of § 2-303 and § 2-304. Thereafter, when vacancies for the at large board of directors within the Dayton Utilities Service Area are to be filled or when terms expire, persons shall be named to their respective vacancies on the said board of directors by a vote of the City Council for the City of Dayton, Tennessee. The Board of Directors of the Dayton Utilities Grant Program may make recommendations to the City Council for the City of Dayton, Tennessee for nominees for the at large board of directors within the Dayton Utilities Service Area. (Ord. #441, Jan. 2004)

2-306. Compensation of directors. No director shall receive compensation for serving on the Board of Directors of the Dayton Utilities Grant Program. (Ord. #441, Jan. 2004)

2-307. Meetings of the board of directors. All meetings shall be conducted in accordance with the by-laws for the Dayton Utilities Grant Program.

1. Regular meeting. The board of directors shall meet every two (2) months (e.g., January, March, May, July, September, November) at a place designated by the board. The board of directors may meet at such other times as they may deem at their discretion to be necessary.

2. Special meeting. Special meetings of the board of directors may be called by the chairperson or by any two (2) directors and it shall thereupon be the duty of the secretary to cause a notice of such meeting to be given as hereafter provided. The chairperson or directors calling such meeting shall fix the date, time and place.

3. Notice of directors meeting. Written notice of the date, time and place of regular and special meetings of the board of directors shall be delivered to members of the board not less than one (1) business day prior hereto, either personally, by mail, or at the direction of the secretary, and upon default in that duty by the secretary, then by the chairperson or the directors calling for such meeting. (Ord. #441, Jan. 2004)

2-308. Removal of member of board. The term of office for those directors who also serve on the Dayton City Council, or the designees of the city council, shall expire upon the expiration of their respective terms of office.

Any at large member of the board of directors within the Dayton Utilities Service Area shall automatically cease to be a member of said board if any such member misses three (3) successive unexcused "regular" meetings as outlined in the by-laws for the Dayton Utilities Grant Program. (Ord. #441, Jan. 2004)

2-309. Officers of the Dayton Utilities Grant Program. The officers of the Dayton Utilities Grant Program shall be a chairperson, a vice-chairperson, a secretary and a treasurer, and such other officers as may be determined by the board from time to time. The above officers shall constitute the Executive Committee of the Dayton Utilities Grant Program. The offices of secretary and treasurer may be held by the same person. (Ord. #441, Jan. 2004)

2-310. Election of officers and terms of office. 1. The officers shall be elected by oral vote as determined by the board of directors at the initial and subsequent annual meetings of the board of directors, which shall be held in May of each year unless, otherwise, designated by the board.

2. The terms of office shall be for one (1) year. However, nothing shall prevent an officer from being re-elected to consecutive terms of office. (Ord. #441, Jan. 2004)

2-311. Duties of officers. 1. Chairperson. The chairperson shall be the principal executive officer and, unless otherwise determined by the board of directors, shall preside at all meetings and in general perform all duties incidental to the office of the chairperson and such other duties as may be prescribed by the board of directors from time to time.

2. Vice-chairperson. In the absence of the chairperson, or in the event of his inability or refusal to act, the vice-chairperson shall perform the duties of the chairperson, and when so acting, shall have all the powers of and be subject to all restrictions upon the chairperson. The vice-chairman shall also perform such other duties as from time to time may be assigned to him by the board of directors.

3. Secretary. The secretary shall be responsible for keeping the minutes of meetings of the board of directors and be responsible for seeing that all notices are duly given in accordance with these by-laws or as required by law; be custodian of the records and have general charge of the books; be responsible for the keeping on file at all times a complete copy of the by-laws and all amendments thereto; and, in general, perform all duties incidental to the office of the secretary and such other duties as from time to time may be assigned to him by the board of directors. The operational duties of the secretary may be assigned to another person by action of the board of directors.

4. Treasurer. The treasurer shall have charge and custody of and be responsible for all funds and securities of the trust; be responsible for the receipt of and the issuance of receipts for monies received from any source whatsoever, and for the deposit of all money in such bank or banks as shall be selected in accordance with the provisions of the by-laws; and in general perform all the duties incidental to the office of treasurer and such other duties as from time to time may be assigned to him by the board of directors. The operational duties of the treasurer may be assigned to another person by action of the board of directors. (Ord. #441, Jan. 2004)

2-312. Policies, rules and regulations. The board of directors shall have the power to recommend to the City of Dayton, Tennessee such rules and regulations, not inconsistent with state and federal laws, rules and regulations, or the By-laws for the Dayton Utilities Grant Program, as it may deem advisable for the management, administration and regulation of the business and affairs of the Dayton Utilities Grant Program. (Ord. #441, Jan. 2004)

2-313. Disbursement of funds. (1) The board of directors shall have the full and sole responsibility for the disbursement of all money of the Dayton Utilities Grant Program in accordance with the by-laws for the Dayton Utilities

Grant Program, the policies as adopted by the board of directors and approved by the city council for the City of Dayton, Tennessee and state and federal laws and regulations.

(2) A board of director 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 board of director's vote on the measure. In addition, the board of director may recuse himself from voting on the measure. The term "personal interest" shall have that meaning as set forth in § 2-202 of the Dayton Municipal Code.

(3) A board of director 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 city recorder. In addition, the board of director may, to the extent allowed by law, ordinance, by-laws or policy, recuse himself from the exercise of discretion in the matter.

(4) All board of directors shall comply with the City of Dayton Code of Ethics as set forth in chapter 2, Code of Ethics, title 1, General Administration, of the Dayton Municipal Code, as amended. (Ord. #441, Jan. 2004, as replaced by Ord. #523, Aug. 2009)

2-314. Accumulation of funds. The City of Dayton Utilities shall transfer funds collected by it for the benefit of the Dayton Utilities Grant Program on a regular basis, but in no event less than monthly. (Ord. #441, Jan. 2004)

2-315. Investment of funds. The board of directors shall be responsible for the funds entrusted to it and shall make investments of said funds in a manner which is reasonable and prudent and in keeping with the By-laws for the Dayton Utilities Grant Program and the policies of the Dayton Utilities Grant Program and the City Council for the City of Dayton, Tennessee as well as state and federal laws and regulations. (Ord. #441, Jan. 2004)

2-316. Accounting system and reports. The board of directors shall cause to be established and maintained a complete accounting system such that is in keeping with sound financial management and shall make reports to the City Council for the City of Dayton, Tennessee on the operation and expenditures of the Dayton Utilities Grant Program as may be necessary and prudent, but in no case less than annually. (Ord. #441, Jan. 2004)

2-317. Limitation of contributions. No money of the Dayton Utilities Grant Program shall be used:

1. To support any candidate for political office or any political purpose;
2. Pay electric bills or charges; or
3. Support governmental schools or schools receiving public funds. (Ord. #441, Jan. 2004)

2-318. Borrowing funds. The Dayton Utilities Grant Program shall not have the authority to borrow money. (Ord. #441, Jan. 2004)

2-319. Amount of expenditures. In keeping with the purpose of this Dayton Utilities Grant Program, the board of directors may make annual expenditures of not more than:

Two thousand five hundred dollars ($2,500.00) to any group, organization, charity or like organization. (Ord. #441, Jan. 2004)

2-320. By-laws. There is hereby created and adopted by the By-laws for the Dayton Utilities Grant Program and all action and direction of the Dayton Utilities Grant Program must comply with said by-laws as well as state and federal laws and regulations. (Ord. #441, Jan. 2004)

TITLE 3

MUNICIPAL COURT[1]

CHAPTER

CHAPTER 1

CITY JUDGE

SECTION

3-101. City judge. Any officer designated by the charter to handle judicial matters within the city may preside over the city court and when so presiding or acting shall be known as the city judge. (1988 Code, § 1-301)

[1]Charter reference
City court, city judge: § 1-12A.

CHAPTER 2

COURT ADMINISTRATION

SECTION

3-201. Maintenance of docket. The city judge shall keep a complete docket of all matters coming before him/her in his/her judicial capacity. The docket shall include for each defendant such information as his name; warrant and/or summons numbers; alleged offense; disposition; penalties and costs imposed and whether collected; and all other information which may be relevant. (1988 Code, § 1-302, as replaced by Ord. #591, March 2017)

3-202. Imposition of fines, penalties and costs. (1) All penalties and costs shall be imposed and recorded by the city judge on the city court docket in open court. In all cases heard and determined by him/her, the city judge shall impose court costs in the following amounts:

Court costs	$105.00
Fines	$50.00
State litigation tax	$13.75
Local litigation tax	$13.25

One dollar ($1.00) of the court costs in each case shall be forwarded by the court clerk to the state treasurer to be used by the administrative office of the courts for training and continuing education courses for municipal court judges and municipal court clerks. (1988 Code, § 1-303, as replaced by Ord. #591, March 2017, amended by Ord. #613, July 2018 ***Ch7_01-04-21***, and replaced by Ord. #690, June 2023 ***Ch8_12-04-23***)

3-203. Disposition and report of fines, penalties, and costs. All funds coming into the hands of the city judge in the form of fines, penalties, costs, and forfeitures shall be recorded by him/her and paid over daily to the city. At the end of each month, he/she shall submit to the city council a report accounting for the collection or non-collection of all fines, penalties, and costs imposed by his/her court during the current month and to date for the current fiscal year. (1988 Code, § 1-304, as replaced by Ord. #591, March 2017)

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. (as added by Ord. #591, March 2017)

3-205. Contempt of court. Contempt of court is punishable by a fine of fifty dollars ($50.00), or such lesser amount as may be imposed in the judge' s discretion. (as added by Ord. #591, March 2017)

3-206. Request for continuance. A continuance fee for each case that is continued due to a request by the defendant shall be set at five dollars ($5.00). (as added by Ord. #690, June 2023 ***Ch8_12-04-23***)

TITLE 4

MUNICIPAL PERSONNEL

CHAPTER

CHAPTER 1

SOCIAL SECURITY FOR OFFICERS AND EMPLOYEES

SECTION

4-101. Policy and purpose as to coverage. It is hereby declared to be the policy and purpose of this city to provide for all eligible employees and officials of the city, whether employed in connection with a governmental or proprietary function, the benefits of the system of federal old age and survivors insurance. In pursuance of said policy, and for that purpose, the city shall take such action as may be required by applicable state and federal laws or regulations. (1988 Code, § 1-601)

4-102. Necessary agreements to be executed. The city manager is hereby authorized and directed to execute all the necessary agreements and amendments thereto with the state executive director of old age insurance, as agent or agency, to secure coverage of employees and officials as provided in the preceding section. (1988 Code, § 1-602)

4-103. Withholdings from salaries or wages. Withholdings from the salaries or wages of employees and officials for the purpose provided in the first section of this chapter are hereby authorized to be made in the amounts and at such times as may be required by applicable state or federal laws or regulations, and shall be paid over to the state or federal agency designated by said laws or regulations. (1988 Code, § 1-603)

4-104. Appropriations for employer's contributions. There shall be appropriated from available funds such amounts at such times as may be

required by applicable state or federal laws or regulations for employer's contributions, and the same shall be paid over to the state or federal agency designated by said laws or regulations. (1988 Code, § 1-604)

4-105. Records and reports to be made. The city shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (1988 Code, § 1-605)

CHAPTER 2

DELETED[1]

(as deleted by Ord. #538, Oct. 2010)

[1]Chapter 2 "Personnel Policy" as adopted November 4, 2004, and any amendments thereto, was removed from the Dayton Municipal Code by Ord. #538, Oct. 2010. The Personnel Policy, and all amendments, for the City of Dayton are published as separate documents and are of record in the office of the city recorder.

CHAPTER 3

TRAVEL REIMBURSEMENT REGULATIONS

SECTION

4-301. Purpose. The purpose of this chapter and referenced regulations is to bring the City of Dayton into compliance with Public Acts 1993, Chapter 433. This act requires Tennessee municipalities to adopt travel and expense regulations covering expenses incurred by "any mayor and any member of the local governing body and any board or committee member elected or appointed by the mayor or local governing body, and any official or employee of the municipality whose salary is set by charter or general law."

To provide consistent travel regulations and reimbursement, this chapter is expanded to cover regular city employees. It's the intent of this policy to assure fair and equitable treatment to all individuals traveling on city business at city expense. (1988 Code, § 1-801)

4-302. Enforcement. The chief administrative officer (CAO) of the city or his or her designee shall be responsible for the enforcement of these travel regulations. (1988 Code, § 1-802)

4-303. Travel policy. (1) In the interpretation and application of this chapter, the term "traveler" or "authorized traveler" means any elected or appointed municipal officer or employee, including members of municipal boards and committees appointed by the mayor or the municipal governing body, and the employees of such boards and committees who are traveling on official municipal business and whose travel was authorized in accordance with this chapter. "Authorized traveler" shall not include the spouse, children, other relatives, friends, or companions accompanying the authorized traveler on city business, unless the person(s) otherwise qualifies as an authorized traveler under this chapter.

(2) Authorized travelers are entitled to reimbursement of certain expenditures incurred while traveling on official business for the city. Reimbursement expenses shall include expenses for transportation; lodging; meals; registration fees for conferences, conventions, and seminars; and other actual and necessary expenses related to official business as determined by the CAO. Under certain conditions, entertainment expenses may be eligible for reimbursement.

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

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

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

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

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

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

(b) Actual, reasonable, and necessary under the circumstances. The CAO may make exceptions for unusual circumstances.

(c) Expenses considered excessive won't be allowed.

(7) Claims of $5 or more for travel expense reimbursement must be supported by the original paid receipt for lodging, vehicle rental, phone call, public carrier travel, conference fee, and other reimbursement costs.

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

(9) Mileage and motel expenses incurred within the City of Dayton are not ordinarily considered eligible expenses for reimbursement. (1988 Code, § 1-803)

4-304. Travel reimbursement rate schedules. Authorized travelers shall be reimbursed according to the policy of the City of Dayton which is attached to this ordinance and incorporated herein as if copied verbatim.[1]

The municipality may pay directly to the provider for expenses such as meals, lodging, and registration fees for conferences, conventions, seminars, and other education programs. (1988 Code, § 1-804)

4-305. Administrative procedures. The city adopts and incorporates by reference, as if fully set out herein, the administrative procedures which are attached to this ordinance and a copy of which is on file in the city recorder's office. (1988 Code, § 1-805)

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[1]See Ordinance No. 323 (August 1993), and amendments thereto, of record in the recorder's office.

CHAPTER 4

OCCUPATIONAL SAFETY AND HEALTH PROGRAM

SECTION

4-401. Title. This chapter shall be known as "The Occupational Safety and Health Program Plan" for the employees of the City of Dayton, Tennessee. (Ord. #436, July 2003, as replaced by Ord. #586, Sept. 2016)

4-402. Purpose. The Dayton City Council in electing to update the established program plan will maintain an effective and comprehensive occupational safety and health program plan for its employees and shall:

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

(a) Top management commitment and employee involvement;

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

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

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

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

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

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

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

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

(7) Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards, and provide for education and notification of all employees of the existence of this program plan. (Ord. #436, July 2003, as replaced by Ord. #586, Sept. 2016)

4-403. Coverage. The provisions of the Occupational Safety and Health Program Plan for the employees of the City of Dayton shall apply to all employees of each administrative department, commission, board, division, or other agency whether part-time or full-time, seasonal or permanent. (Ord. #436, July 2003, as replaced by Ord. #586, Sept. 2016)

4-404. Standards authorized. The occupational safety and health standards adopted by the City of Dayton are the same as, but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in accordance with section 6 of the Tennessee Occupational Safety and Health Act of 1972.[1] (Ord. #436, July 2003, as replaced by Ord. #586, Sept. 2016)

4-405. Variances from standards authorized. Upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, we may request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with Rules of Tennessee Department of Labor and Workforce Development, Occupational Safety and Health, VARIANCES FROM OCCUPATIONAL SAFETY AND HEALTH STANDARDS, chapter 0800-01-02, as authorized by Tennessee Code Annotated, title 50. Prior to requesting such temporary variance, we will notify or serve notice to our employees, their designated representatives, or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board shall be deemed sufficient notice to employees. (Ord. #436, July 2003, as replaced by Ord. #586, Sept. 2016)

4-406. Administration. For the purposes of this chapter, Dan Fry is designated as the safety director of occupational safety and health to perform duties and to exercise powers assigned to plan, develop, and administer this

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[1]State law reference

Tennessee Code Annotated, title 50, chapter 3.

program plan. The safety director shall develop a plan of operation[1] for the program plan in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, SAFETY AND HEALTH PROVISIONS FOR THE PUBLIC SECTOR, chapter 0800-01-05, as authorized by Tennessee Code Annotated, Title 50. (Ord. #436, July 2003, as replaced by Ord. #586, Sept. 2016, Ord. #624, May 2020 ***Ch7_01-04-21***, and Ord. #698, Dec. 2023 ***Ch8_12-04-23***)

4-407. Funding the program. Sufficient funds for administering and staffing the program plan pursuant to this chapter shall be made available as authorized by the City of Dayton, Dayton City Council. (Ord. #436, July 2003, as replaced by Ord. #586, Sept. 2016)

[1]The plan of operation is included in this municipal code as Appendix A.

TITLE 5

FINANCE AND TAXATION

CHAPTER

CHAPTER 1

MISCELLANEOUS

SECTION

5-101. Fiscal year. The fiscal year of the city shall begin on the first day of July and end on the 30th day of the following June. (1988 Code, § 6-101)

5-102. No purchases from firms owing delinquent business taxes. No purchase shall be made or purchase order or contract of purchase issued for tangible personal property or services by city officials or employees, acting in their official capacity, from any firm or individual whose business tax or license is delinquent. (1988 Code, § 6-102)

5-103. Official depository for city funds. (1) All financial institutions or branches located in Dayton, Tennessee are hereby designated the official depositories for the City of Dayton. All deposits totaling more than one hundred thousand dollars ($100,000.00) shall be secured in a manner satisfactory to the city recorder. All other deposits shall be insured by an agency of the federal government.

(2) In addition, for the temporary investment of City of Dayton funds, those investments authorized by the State of Tennessee, specifically as set forth in Tennessee Code Annotated § 6-56-106, as may be amended from time to time, are allowed upon prior approval by a majority vote of the city council for the City of Dayton, Tennessee. (1988 Code, § 6-103, as replaced by Ord. #559, Oct. 2012)

5-104. <u>Dollar amount for public advertisement and competitive bidding</u>. (1) Public advertisement and competitive bidding will not be required for any item that comes within the purchasing law in excess of twenty-five thousand dollars ($25,000.00).

(2) All purchases exceeding ten thousand dollars ($10,000.00) shall be approved in writing by the city manager prior to the purchase being made.

(3) No purchase shall be made by any department head or city employee without the funds for said purchase having been appropriately authorized and/or budgeted by the city council.

(4) All contracts for services, equipment, materials, supplies and goods shall be approved by the city council. (1988 Code, § 6-104, as replaced by Ord. #532, July 2010, Ord. #694, Aug. 2023 ***Ch8_12-04-23***, and Ord. #697, Aug. 2023 ***Ch8_12-04-23***)

5-105. <u>One-time waiver of county school bond proceeds</u>. The city hereby exercises a one-time waiver of any rights it might have to any portion of the proceeds of the county school bond issue that will be used for repairs to the existing high school to be converted to a county middle school upon completion of the new high school since:

(1) The county will pay a portion of the debt service payments on the county school bonds from local option sales tax revenues that have already been shared with the city, and

(2) The city school students will benefit from such expenditures. As a result, the city desires to waive any rights it might have to any portion of the county's school bond issue that will be used to make repairs to the existing high school for its later use as a middle school for the county and repeals all resolutions and ordinances contrary to this provision. However, this one-time waiver does not affect the distribution of the local option sales tax currently in place. (as added by Ord. #554, Oct. 2011)

CHAPTER 2

REAL AND PERSONAL PROPERTY TAXES

SECTION

5-201. When due and payable.[1] Taxes levied by the city against real and personal property shall become due and payable annually on the first Monday of October of the year for which levied. (1988 Code, § 6-201)

5-202. When delinquent--penalty and interest.[2] 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. (1988 Code, § 6-202)

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[1]State law references

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

[2]Charter and 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 1/2 of 1% and interest of 1% shall be added on the first day of March, following the tax due date and on the first day of each succeeding month.

CHAPTER 3

PRIVILEGE TAXES

SECTION

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 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. (1988 Code, § 6-301)

5-302. License required. No person shall exercise any such privilege within the city without a currently effective to each applicant therefor upon the applicant's payment of the appropriate privilege tax and clerks fee of five dollars ($5.00). (1988 Code, § 6-302, modified)

5-303. 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, and any amendments thereto, there is hereby levied a privilege tax (in the same amounts as levied by Tennessee Code Annotated, § 57-4-301 for the City of Dayton General Fund to be paid annually as provided in this chapter) upon any person or legal entity regardless of its form of existence, i.e., sole proprietorship, corporation, limited liability company, partnership, etc. engaging in the business of selling at retail in the City of Dayton alcoholic beverages for consumption on the premises where sold. It is the intent of the city council that the said Tennessee Code Annotated, § 57-4-301, and any amendments thereto shall be effective in Dayton, Tennessee, the same if the said Tennessee Code Annotated section was adopted and copied herein verbatim. (as added by Ord. #540, Feb. 2011)

5-304. Annual privilege tax to be paid to the city recorder. Any person or legal entity regardless of its form of existence, i.e., sole proprietorship, corporation, limited liability company, partnership, etc. exercising the privilege of selling alcoholic beverages for consumption on the premises in the City of Dayton shall remit annually to the city recorder the appropriate tax described

in § 8-103. Such payment shall be remitted not less than thirty (30) days following the end of each twelve (12) month period from the original date of the license. Upon the transfer of ownership of such business or the discontinuance of such business, said tax shall be filed within thirty (30) days following such event. Any person or legal entity regardless of its form of existence, i.e., sole proprietorship, corporation, limited liability company, partnership, etc., failing to make payment of the appropriate tax when due shall be subject to any penalty provided by law, including revocation of the privilege of selling alcoholic beverages for consumption on the premises in the City of Dayton. (as added by Ord. #540, Feb. 2011)

CHAPTER 4

WHOLESALE BEER TAX

SECTION

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.[1] (1988 Code, § 6-401)

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[1]State law reference

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

CHAPTER 5

CREDIT CARD AND DEBIT CARD PAYMENTS

SECTION

5-501. Credit card and debit card payments. (1) The City of Dayton may accept credit card and/or debit card payments for utility charges, property taxes, permits, fees, business licenses, applications, fines and court costs.

(2) The City of Dayton shall charge and collect a processing fee that is equal to the amount paid to the third party processor for processing the payment. However, the processing fee shall not be set in an amount that exceeds five percent (5%) of the amount of the payment collected by credit card or debit card.

(3) In the event that the credit card or debit card company issuing the card does not honor payment of the charge, the City of Dayton shall collect the same fee that it normally charges for returned checks and this fee shall be in addition to the normal fee for using a credit card or debit card for payment of utility bills.

(4) The City of Dayton shall state on any notice to the person owing the utility charges, property taxes, permits, fees, business licenses, applications, fines and/or court cost either the percentage of the processing fee for use of a credit card or debit card or the actual fee imposed for the use of a credit card or debit card.

(5) The City of Dayton shall file a pre-implementation statement with the comptroller's office, as required by Tennessee Code Annotated, § 47-10-119, thirty (30) days prior to implementing the processing fees set forth herein. The City of Dayton shall provide to the Comptroller of the Treasury a post-implementation review of the system between twelve (12) and eighteen (18) months after the date a pre-implementation statement has been filed with the comptroller's office. (as added by Ord. #563, Jan. 2014)

CHAPTER 6

HOTEL/MOTEL TAX

SECTION

5-601. Definitions. (1) "Consideration" means the consideration charged, whether or not received, for the occupancy in a hotel valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits, property and services of any kind or nature without any deduction therefrom whatsoever.

(2) "Hotel" means any structure or space, or any pottion thereof, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes privately, publicly, or government-owned hotels, inns, tourist camps, tourist courts, tourist cabins, motels, short term rental units, primitive and recreational vehicle campsites and campgrounds, or any place in which rooms, lodgings or accommodations are furnished to transients for consideration.

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

(4) "Operator" means the person operating the hotel, whether as owner, lessee or otherwise.

(5) "Person" means any individual, or group of individuals, that occupies the same room.

(6) "Tourism" means attracting nonresidents to visit a particular municipality and encouraging those nonresidents to spend money in the municipality, which includes travel related to both leisure and business activities.

(7) "Tourism development" means the acquisition and construction of, and financing and retirement of debt for, facilities related to tourism.

(8) "Transient" means any person who exercises occupancy or is entitled to occupancy of any rooms, lodgings or accommodations in a hotel for a period of less than thirty (30) days. (as added by Ord. #658, Feb. 2022 ***Ch8_12-04-23***)

5-602. Permit required; fee; permit not transferable. (1) No person shall conduct, keep, manage, operate or cause to be conducted, kept, managed, or operated, either as owner, lessor, agent or attorney, any hotel as defined in this chapter in the city without having obtained a permit from the city recorder to do so. Hotel permits shall be issned annually and shall expire on the last day of December of each year.

(2) The fee for each hotel permit shall be twenty-five dollars ($25.00).

(3) No permit issued under this chapter shall be transferred or assigned. (as added by Ord. #658, Feb. 2022 ***Ch8_12-04-23***)

5-603. Register required; availability for inspection. Every person to whom a business license is issued under this chapter shall, at all times, keep a standard hotel register, in which shall be inscribed the names of all guests renting or occupying rooms in his/her hotel. Such register shall be signed in every case by the persons renting a room or by someone under his direction, and after registration is made and the name of the guest is inscribed as herein provided, the manager shall write the number of the room which guest is to occupy, together with the time such room is rented, before such person is permitted to occupy such room. The register shall be open to inspection at all times to the city. (as added by Ord. #658, Feb. 2022 ***Ch8_12-04-23***)

5-604. Rooms to be numbered. Each sleeping room and in every hotel in the city shall be numbered in a plain and conspicuous manner. The number of each room shall be placed on the outside of the door of such room, and no two (2) doors shall bear the same number. (as added by Ord. #658, Feb. 2022 ***Ch8_12-04-23***)

5-605. Tax levied. There is hereby levied, assessed and imposed, and shall be paid and collected, a privilege tax upon the privilege of occupancy in any hotel of each transient in an amount equal to four percent (4%) of the consideration charged by the operator. Such tax is a privilege tax upon the transient occupying such room and is to be collected as provided herein. (as added by Ord. #658, Feb. 2022 ***Ch8_12-04-23***)

5-606. Recorder to collect; disposition of proceeds. The city recorder is hereby charged with the duty of collection of the tax herein levied and the proceeds received by the city from the tax shall be used exclusively for tourism and tourism development within the city as required by Tennessee Code Annotated, § 67-4-1403. (as added by Ord. #658, Feb. 2022 ***Ch8_12-04-23***)

5-607. Collection and refund. (1) Such tax shall be added by the operator to each invoice that the operator prepares and gives directly, or transmits, to the transient for the occupancy of the operator's hotel. The tax so invoiced shall be collected from the transient by the operator and remitted to the City, or if the occupancy was secured through a short-term rental unit marketplace, remitted to the State of Tennessee pursuant to Tennessee Code Annotated, title 67, chapter 4, part 15. However, if a short-term rental unit marketplace was not used, then the tax shall be collected from the transient by the operator and remitted to the city.

(2) When a person has maintained occupancy for thirty (30) continuous days, that person shall receive from the operator a refund or credit for the tax previously collected from or charged to that person, and the operator shall receive credit for the amount of such tax if previously paid or remitted to the city. (as added by Ord. #658, Feb. 2022 ***Ch8_12-04-23***)

5-608. Remittance of tax. (1) The tax hereby levied shall be remitted by all operators who lease, rent or charge for rooms or spaces in hotels within the city to the city recorder with the tax to be remitted to the city recorder not later than the 20th day of each month for the preceding month. The operator is required to collect the tax from the transient at the time of the presentation of the invoice for occupancy as may be the custom of the operator, and if credit is granted by the operator to the transient, then the obligation to the city of such tax shall be that of the operator.

(2) For the purpose of compensating the operator in accounting for remitting the tax levied pursuant to this chapter, the operator shall be allowed two percent (2%) of the amount of the tax due and accounted for and remitted to the city recorder in the form of a deduction in submitting the operator's report and paying the amount due by such operator; provided, that the amount due was not delinquent at the time of payment.

(3) The tax levied pursuant to this chapter when levied upon the occupancy of a short-term rental unit secured through a short-term rental unit marketplace, must be collected and remitted in accordance with Tennessee Code Annotated, title 67, chapter 4, part 15. (as added by Ord. #658, Feb. 2022 ***Ch8_12-04-23***)

5-609. Monthly tax return--annual audit. (1) The city recorder shall be responsible for the collection of such tax. A monthly tax return shall be filed under oath with the city recorder by the operator with such number of copies of the return as the city recorder may reasonably require for the collection of such tax.

(2) The report of the operator shall include such facts and information as may be deemed reasonable for the verification of the tax due. The form of such report shall be developed by the city recorder and approved by the city council prior to use.

(3) The city recorder shall audit each operator in the city at least once per year and shall report on the audits made on a quarterly basis to the city council.

(4) The city recorder shall have the authority and right to audit and inspect records of each operator in the city. (as added by Ord. #658, Feb. 2022 ***Ch8_12-04-23***)

5-610. No advertising of rebates. No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part of the tax will be assumed or absorbed by the operator or that it will not be added to the rent, or that if added, any patt will be refunded. (as added by Ord. #658, Feb. 2022 ***Ch8_12-04-23***)

5-611. Delinquent taxes interest and penalty. (1) Taxes collected by an operator that are not remitted to the city on or before the due dates shall be delinquent.

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

(3) Each occurrence of knowing refusal of an operator to collect or remit the tax or willful refusal of a transient to pay the tax imposed is unlawful and shall be punishable by a civil penalty of fifty dollars ($50.00) each occurrence. As used herein, "each occurrence" shall mean each day. (as added by Ord. #658, Feb. 2022 ***Ch8_12-04-23***)

5-612. Records--inspection. It is the duty of every operator liable for the collection of and payment to the city of any tax imposed by this chapter to keep and preserve for a period of three (3) years all records as may be necessary to determine the amount of such tax for which the operator may have been liable for the collection of and payment to the city, which records the city recorder shall have the right to inspect at all times. (as added by Ord. #658, Feb. 2022 ***Ch8_12-04-23***)

5-613. Administration and enforcement--remedies of taxpayers.

(1) The city recorder, or other authorized collector of the tax, in administering and enforcing the provisions of this chapter, shall have, as additional powers, those powers and duties with respect to collecting taxes as provided by law for the county clerks.

(2) Upon any claim of illegal assessment and collection, the taxpayer shall have the remedies provided in Tennessee Code Annotated, title 67; provided, that the city recorder shall possess those powers and duties as provided in Tennessee Code Annotated, § 67-1-707 for the county clerks.

(3) With respect to the adjustment and settlement with taxpayers, all errors of taxes collected by the city recorder under the authority of this chapter and Tennessee Code Annotated, title 67, shall be refunded by the city recorder.

(4) Notice of any tax paid under protest shall be given to the city recorder. Any suit filed to recover taxes paid under protest may be brought by filing the same against the city recorder. (as added by Ord. #658, Feb. 2022 ***Ch8_12-04-23***)

TITLE 6

LAW ENFORCEMENT

CHAPTER
1. POLICE AND ARREST.
2. ORDINANCE SUMMONSES.
3. WORKHOUSE.

CHAPTER 1

POLICE AND ARREST[1]

SECTION
6-101. Policemen subject to chief's orders.
6-102. Policemen to preserve law and order, etc.
6-103. When policemen to make arrests.
6-104. Policemen may require assistance in making arrests.
6-105. Disposition of persons arrested.
6-106. Police department records.

6-101. Policemen subject to chief's orders. All police officers shall obey and comply with such orders and administrative rules and regulations as the police chief may officially issue. (1988 Code, § 1-401)

6-102. Policemen to preserve law and order, etc. Police officers shall preserve law and order within the city. They shall patrol the city and shall assist the city court during the trial of cases. Police officers shall also promptly serve any legal process issued by the city court. (1988 Code, § 1-402)

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

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

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

(3) Whenever a felony has in fact been committed and the officer has reasonable cause to believe the person has committed it. (1988 Code, § 1-404)

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

6-104. Policemen may require assistance in making arrests. It shall be unlawful for any person willfully to refuse to aid a police officer in maintaining law and order or in making a lawful arrest when such a person's assistance is requested by the police officer and is reasonably necessary to effect the arrest. (1988 Code, § 1-404)

6-105. Disposition of persons arrested. (1) For code or ordinance violations. Unless otherwise provided by law, a person arrested for a violation of this code or other city ordinances 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 fails or refuses to post bond, he shall be confined pending his release by the city judge. In addition, 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. (1988 Code, § 1-405)

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

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

(2) All arrests made by police officers.

(3) All police investigations made, funerals convoyed, fire calls answered, and other miscellaneous activities of the police department. (1988 Code, § 1-406)

CHAPTER 2

ORDINANCE SUMMONSES

SECTION
6-201. Citations in lieu of arrest in non-traffic cases.
6-202. Summonses in lieu of arrest.

6-201. Citations in lieu of arrest in non-traffic cases.[1] Pursuant to Tennessee Code Annotated, § 7-63-101, et seq., the city council appoints the fire chief in the fire department and the codes enforcement officer 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 codes enforcement office 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 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. (1988 Code, § 1-406)

6-202. 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 codes enforcement officer in the building department and the animal control officer to issue ordinance summonses in those areas. These enforcement officers may not arrest violators or issue citations in lieu of arrest, but upon witnessing

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[1]Municipal code reference
Issuance of citations in lieu of arrest in traffic cases: title 15, chapter 7.

a violation of any ordinance, in the areas of sanitation, litter control or animal control, may issue an ordinance summons and give the summons to the offender.

The ordinance summons shall contain the name and address of the person being summoned and other information necessary to identify and give the person summons notice of the charge against him, and state a specific date and place for the offender to appear and answer the charges against him. The ordinance summons shall also contain an agreement to appear, which shall be signed by the offender. If the offender refuses to sign the agreement to appear, the enforcement officer in whose presence the offense occurred may (1) have a summons issued by the clerk of the 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 § 6-201 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. (1988 Code, § 1-407)

CHAPTER 3

WORKHOUSE[1]

SECTION
6-301. County jail to be used.
6-302. Inmates may be worked.

6-301. County jail to be used. The county jail is hereby designated as the city workhouse, subject to such contractual arrangement as may be worked out with the county. (1988 Code, § 1-501)

6-302. Inmates may be worked. All persons committed to the workhouse, to the extent that their physical condition shall permit, shall be required to perform such public work or labor as may be lawfully prescribed for the county prisoners. (1988 Code, § 1-502)

[1]Charter reference
Workhouse and lockup: § 1-13.

TITLE 7

FIRE PROTECTION AND FIREWORKS[1]

CHAPTER

CHAPTER 1

FIRE DISTRICT

SECTION

7-101. Fire limits described. The corporate fire limits shall be the area described as the central business district in the city's zoning ordinance. (1988 Code, § 7-101)

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[1]Municipal code reference
Building, utility and housing codes: title 12.

CHAPTER 2

FIRE CODE[1]

SECTION

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[2] 2012 edition, as prepared and adopted by the International Code Council, is hereby adopted by reference and included as a part of this code excluding in its entirety chapter 20, "fireworks." Pursuant to the requirement of Tennessee Code Annotated, § 6-54-502, three (3) copies of the fire prevention code have been filed with the city recorder and are available for public use and inspection. Said fire prevention code is adopted and incorporated as fully as if set out at length herein and shall be controlling within the corporate limits. (1988 Code, § 7-201, as amended by Ord. #400, May 2000, Ord. #472, Sept. 2006, Ord. #548, June 2011, and replaced by Ord. #555, Nov. 2011, and Ord. #579, Feb. 2016)

7-202. Enforcement. The fire prevention code herein adopted by reference shall be enforced by the chief of the fire department. He shall have the same powers as the state fire marshal. (1988 Code, § 7-202)

7-203. Definition of "municipality." Whenever the word "municipality" is used in the fire prevention code herein adopted, it shall be held to mean the City of Dayton, Tennessee. (1988 Code, § 7-203)

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[1]Municipal code reference
Building, utility and housing codes: title 12.

[2]Copies of this code are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213-1206.

7-204. Storage of explosives, flammable liquids, etc. (1) The district referred to in § 1901.4.2 of the fire prevention code, in which storage of explosives and blasting agents are prohibited, is hereby declared to be the fire district as set out in § 7-101 of this code.

(2) The district referred to in § 902.1.1 of the fire prevention code, in which storage of flammable or combustible liquids in outside above ground tanks is prohibited, is hereby declared to be the fire district as set out in § 7-101 of this code.

(3) The district referred to in § 906.1 of the fire prevention code, in which new bulk plants for flammable or combustible liquids are prohibited, is hereby declared to be the fire district as set out in § 7-101 of this code.

(4) The district referred to in § 1701.4.2 of the fire prevention code, in which bulk storage of liquefied petroleum gas is restricted, is hereby declared to be the fire district as set out in § 7-101 of this code. (1988 Code, § 7-204)

7-205. 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. (1988 Code, § 7-205)

7-206. Variances. The chief of the fire department may recommend to the city council variances from the provisions of the fire prevention 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. (1988 Code, § 7-206)

7-207. Modifications. Within said fire code, when reference is made to the duties of a certain official named therein, that designated official of the City of Dayton, Rhea County, Tennessee who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of said code are concerned. (Ord. #400, May 2000)

7-208. Violations and penalties. It shall be unlawful for any person to violate any of the provisions of this chapter or the Standard Fire Prevention 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 modified by the board of mayor and aldermen or by a court of competent jurisdiction, within the time fixed herein. The application of a penalty under the general penalty clause

for the municipal code shall not be held to prevent the enforced removal of prohibited conditions. (1988 Code, § 7-207)

7-209. Repeal of conflicting provisions. Any matters in said code which are contrary to existing ordinances of the City of Dayton, Rhea County, Tennessee shall prevail and to that extent any existing ordinances to the contrary are hereby repealed in that respect only. (Ord. #400, May 2000)

CHAPTER 3

FIRE DEPARTMENT[1]

SECTION

7-301. Establishment, equipment, and membership. There is hereby established a fire department to be supported and equipped from appropriations by the city council. All apparatus, equipment, and supplies shall be purchased by or through the city and shall be and remain the property of the city. The fire department shall be composed of a chief and such number of physically-fit subordinate volunteer officers and firemen as the city council shall appoint. (1988 Code, § 7-301)

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

(1) To prevent uncontrolled fires from starting.

(2) To prevent the loss of life and property 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. (1988 Code, § 7-302)

7-303. Organization, rules, and regulations. The chief of the fire department shall set up the organization of the department, make definite assignments to individuals, and shall formulate and enforce such rules and regulations as shall be necessary for the orderly and efficient operation of the fire department, under the direction of the board of mayor and aldermen. (1988 Code, § 7-303)

7-304. Records and reports. The chief of the fire department shall keep adequate records of all fires, inspections, apparatus, equipment, personnel,

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[1]Municipal code reference

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

and work of the department. He shall submit a written report on such matters to the mayor as the mayor requires. The mayor shall submit such reports on these matters to the city council as the city council requires. (1988 Code, § 7-304)

7-305. Tenure and compensation of members. The chief shall have the authority to suspend any other member of the fire department when he deems such action to be necessary for the good of the department. The chief may be suspended up to thirty (30) days by the mayor. However, only the city council shall dismiss either the fire chief or subordinate officers and firemen. (1988 Code, § 7-305)

7-306. Chief responsible for training and maintenance. The chief of the fire department, shall be fully responsible for the training of the fire fighters, and the minimum training shall consist of having the personnel take the fire apparatus out for practice operations not less than once a month. (1988 Code, § 7-306)

7-307. Chief to be assistant to state officer. Pursuant to requirements of Tennessee Code Annotated, § 68-102-108, the chief of the fire department is designated as an assistant to the state commissioner of commerce and insurance and is subject to all the duties and obligations imposed by Tennessee Code Annotated, title 68, chapter 102, and shall be subject to the directions of the fire prevention commissioner in the execution of the provisions thereof. (1988 Code, § 7-308)

7-308. Fire protection fee. There shall hereby be charged and collected by the City of Dayton a fire protection fee in the amount of two dollars ($2.00) per month for each water meter in the city limits of Dayton, Tennessee, for a total of twenty-four dollars ($24.00) per year for each water meter. The City of Dayton shall use as one (1) method of collection the monthly water bill for each water meter located within the city limits of Dayton, Tennessee. Said fire protection fee shall be separate from and not considered a part of the water bill. The revenue from the collection of said fire protection fee shall be deposited in a separate account designated for the sole use of the fire department. (as added by Ord. #515, Dec. 2008)

CHAPTER 4

FIRE SERVICE OUTSIDE CITY LIMITS

SECTION

7-401. Restrictions on fire service outside city limits. No personnel or equipment of the fire department shall be used for fighting any fire outside the city limits unless the fire is on city owned property or, in the opinion of the fire chief, is in such hazardous proximity to property owned or located within the city as to endanger the city property, or unless the city council has developed policies for providing emergency services outside of the city limits or entered into a contract or mutual aid agreement pursuant to the authority of:

1. Tennessee Code Annotated, § 12-9-101, et seq.[1]
2. Tennessee Code Annotated, § 6-54-601.[2]

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[1]State law reference

Tennessee Code Annotated, § 12-9-101, et seq., is the Interlocal Cooperation Act which authorizes municipalities and other governments to enter into mutual aid agreements of various kinds.

[2]State law reference

Tennessee Code Annotated, § 6-54-601 authorizes municipalities (1) To enter into mutual aid agreements with other municipalities, counties, privately incorporated fire departments, utility districts and metropolitan airport authorities which provide for firefighting service, and with industrial fire departments, to furnish one another with fire fighting assistance. (2) Enter into contracts with organizations of residents and property owners of unincorporated communities to provide such communities with firefighting assistance. (3) Provide fire protection outside their city limits to either citizens on an individual contractual basis, or to citizens in an area without individual contracts, whenever an agreement has first been entered into between the municipality providing the fire service and the county or counties in which the fire protection is to be provided. (Counties may compensate municipalities for the extension of fire services.)

3. Tennessee Code Annotated, § 58-2-111(c).[1] (1988 Code, § 7-307)

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[1]State law reference

Tennessee Code Annotated, § 58-2-111(c) authorizes any municipality or other local governmental entity to go outside of its boundaries in response to a request for emergency assistance by another local government. It does not create a duty to respond to or to stay at the scene of an emergency outside its jurisdiction.

This statute, as amended, does not require written agreements between the local governments, but authorizes them to develop policies and procedures for requesting and responding to requests for emergency assistance, including provisions for compensation for service rendered.

The statute specifies which municipal officers may request and respond to requests for emergency assistance and provides for the appointment by municipal governing bodies of additional municipal officers with the same authority.

The statute provides that the senior officer of the requesting party will be in command at the scene of the emergency.

The statute outlines the liabilities of the requesting and responding governments as follows: (1) Neither the responding party nor its employees shall be liable for any property damage or bodily injury at the actual scene of any emergency due to actions performed in responding to a request for emergency assistance; (2) The requesting party is not liable for damages to the equipment and personnel of the responding party in response to the request for emergency assistance; and (3) Neither the requesting party nor its employees is liable for damages caused by the negligence of the personnel of the responding party while enroute to or from the scene of the emergency.

CHAPTER 5

FIREWORKS

SECTION

7-501. Fireworks defined. "Fireworks" means and includes any combustible or explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration, or detonation, and includes blank cartridges, toy pistols, toy cannons, toy canes, or toy guns in which explosives are used, the type of balloons that require fire underneath to propel them, firecrackers, torpedoes, skyrockets, Roman candles, Daygo bombs, sparklers, or other devices of like construction, and any devices containing any explosive or flammable compound, or any tablets or other device containing any explosive substance. The word "fireworks" does not include auto flares, paper caps containing not in excess of an average of twenty-five hundredths of a grain of explosive content per cap, and toy pistols, toy canes, toy guns, or other devices for use of these caps. The sale and use of these items shall be permitted at all times. (1988 Code, § 7-401)

7-502. Manufacture, sale, and discharge. (1) The manufacture of fireworks is prohibited within the city.

(2) Except as hereinafter provided, it shall be unlawful for any person to store, to offer for sale, expose for sale, sell at retail, or use or explode any fireworks. The chief of the fire department, however, may adopt reasonable rules and regulations for the granting of permits for supervised public displays of fireworks by the city, fair associations, amusement parks, and other organizations. Every such display shall be handled by a competent operator approved by the chiefs of the police and fire department of the city, and shall be of such a character, and so located, discharged, or fired as in the opinion of the chief of the fire department, after proper inspection, is not hazardous to property or to persons.

(3) Application for permits shall be made in writing at least fifteen days in advance of the date of the display. After the permit has been granted, sale, possession, use, and distribution of fireworks for the display shall be lawful for that purpose only. No permit granted hereunder shall be transferable. (1988 Code, § 7-402)

7-503. Bond for fireworks display required. The permittee shall furnish a bond in an amount deemed adequate by the chief of the fire department for the payment of all damages that may be caused either to a person or persons or to property by reason of the permitted display, and arising from any acts of the permittee, his agents, employees, or subcontractors. (1988 Code, § 7-403)

7-504. Disposal of unfired fireworks. Any fireworks that remain unfired after the display is concluded shall be immediately disposed of in a way safe for the particular type of fireworks remaining. (1988 Code, § 7-404)

7-505. Exceptions. Nothing in this chapter shall be construed to prohibit the use of fireworks by railroads or other transportation agencies for signal purposes or illumination, or the sale or use of blank cartridges for a show or theater, or for signal or ceremonial purposes in athletics or sports, or for use by military organizations. (1988 Code, § 7-405)

7-506. Seizure of fireworks. The chief of the fire department or any police officer having knowledge thereof shall seize, take, remove, or cause to be removed at the expense of the owner all stocks of fireworks offered or exposed for sale, stored, or held in violation of this chapter. (1988 Code, § 7-406)

TITLE 8

ALCOHOLIC BEVERAGES[1]

CHAPTER
1. INTOXICATING LIQUORS.
2. BEER.

CHAPTER 1

INTOXICATING LIQUORS

SECTION
8-101. Alcoholic beverages subject to regulation.
8-102. State laws to be complied with.
8-103. Application for certificate.
8-104. Applicant to agree to comply with laws.
8-105. Applicant to appear before city council; duty to give information.
8-106. Action on application.
8-107. Residency requirement.
8-108. Applicants for certificate who have criminal record.
8-109. Only one establishment to be operated by retailer.
8-110. Where establishments may be located and advertising.
8-111. Radios, amusement devices and seating facilities prohibited in retail establishments.
8-112. Retail stores to be on ground floor; entrances.
8-113. Repealed.
8-114. Sales for consumption on premises.
8-115. Inspection fee.
8-116. Violations.
8-117. Severability.
8-118. Section headings.

8-101. Alcoholic beverages subject to regulation. It shall be unlawful to engage in the business of selling, storing, transporting, distributing, or to purchase or possess alcoholic beverages within the corporate limits of this city except as provided by Tennessee Code Annotated, title 57 and as provided under this chapter. (1988 Code, § 2-101, as replaced by Ord. #542, Feb. 2011, and Ord. #593, June 2017)

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

8-102. State laws to be complied with. No person, firm, corporation, association or partnership shall engage in the retail liquor business unless all the necessary state licenses and permits have been obtained. (as added by Ord. #542, Feb. 2011, and replaced by Ord. #593, June 2017)

8-103. Application for certificate. Before any certificate, as required by Tennessee Code Annotated, § 57-3-208 or a renewal as required by § 57-3-213 shall be signed by the mayor, or a majority of the city council, an application in writing shall be filed with the city recorder on a form to be provided by the city, giving the following information:

(1) For all applications, the following information shall be provided by the applicant:

(a) Name, age, date of birth and address of the applicant.

(b) The applicant's occupation or business and length of time engaged in such occupation or business.

(c) Name, age, date of birth and address of each person to have any interest, direct or indirect, in the license as owner, partner, or stockholder, director, officer, or otherwise.

(d) The name of the retail store to be operated under the license.

(e) The address of the retail store to be operated under the license and the zoning designation applicable to such location.

(f) Whether or not the applicant(s) who are to be in actual charge of the business have been convicted of a felony within a ten (10) year period immediately preceding the date of the application. If a corporation, whether or not the executive officers or those in control have been convicted of a felony within a ten (10) year period immediately preceding the date of the application.

(g) The name and address of the owner of the store.

(h) Copies of the applicant's public notice published in at least three (3) consecutive issues of a newspaper of general circulation in the area to be served immediately preceding the date the applicant applies for the certificate of compliance and the sworn statement by the applicant that he/she/it has complied with the rules of the Tennessee Alcoholic Beverage Commission pertaining to public notice.

(2) If the applicant is a corporation, the following information shall be included:

(a) Name of the corporation, state of incorporation, and date of qualification to do business in the State of Tennessee if the state of incorporation is other than Tennessee;

(b) List of names, dates of birth, and addresses of all officers of the corporation;

(c) List of names, dates of birth, and addresses of all directors of the corporation;

(d) List of the names, addresses, percent of outstanding stock owned or controlled, and business or occupation of each stockholder of the corporation owning ten percent (10%) or more of the outstanding stock of each class of said corporation;

(e) Whether any officer or director has been convicted of a felony within the past ten (10) years; and

(f) A copy of the charter of the corporation shall be attached as an exhibit to the application.

(3) If the applicant is a partnership, the following information shall be included:

(a) Partnership name and address;

(b) Names, dates of birth, and addresses of all partners indicating separately those partners who are general partners and those who are limited partners, if any, and, for each partner, showing the name of such partner, such partner's profit sharing percentage in the partnership, and the business or occupation of each such partner;

(c) A copy of the partnership agreement shall be attached as an exhibit to the application; and

(d) Whether any partner has been convicted of a felony within the past ten (10) years.

It shall be unlawful for any person to have ownership in or participate in, either directly or indirectly, the profits of any liquor store unless his or her interest in such business and the nature, extent and character thereof shall appear on the application.

The information in the application shall be verified by the oath of the applicant. If the applicant is a partnership or a corporation, the application shall be verified by the oath of each partner, or by the president of the corporation.

Each application for a certificate of compliance for off-premise consumption shall pay a non-refundable application fee of two hundred fifty dollars ($250.00) to the city recorder.

The applicant must complete and return with the application any documents or forms that the chief of police or city attorney may require in order to conduct an investigation on the applicant. (as added by Ord. #542, Feb. 2011, and replaced by Ord. #593, June 2017, Ord. #644, June 2021 ***Ch8_12-04-23***, and Ord. #678, Nov. 2022 ***Ch8_12-04-23***)

8-104. <u>Applicant to agree to comply with laws</u>. The applicant for a certificate of compliance shall agree in writing to comply with the state and federal laws and regulations and the ordinances of the City of Dayton and the rules and regulations of the Alcoholic Beverage Commission of the State of Tennessee for sale of alcoholic beverages. (as added by Ord. #542, Feb. 2011, and replaced by Ord. #593, June 2017)

8-105. Applicant to appear before city council; duty to give information. An applicant for a certificate of compliance may be required to appear in person before the city council for such reasonable examination as may be desired by the city council. (as added by Ord. #542, Feb. 2011, and replaced by Ord #593, June 2017)

8-106. Action on application. (1) Every application for a certificate of compliance shall be referred to the chief of police for investigation and to the city attorney for review, each of whom shall submit his/her findings to the city council within thirty (30) days of the date each application was filed.

(2) The city council may issue a certificate of compliance to any applicant, which shall be signed by the mayor or by a majority of the city council. (as added by Ord. #593, June 2017, and replaced by Ord. #644, June 2021 ***Ch8_12-04-23***)

8-107. Residency requirement. The applicant for a certificate of compliance shall have been a bona fide resident of Rhea County for not less than one (1) year at the time his/her application is filed. If the applicant is a partnership or a corporation, each of the partners or stockholders must have been a bona fide resident of Rhea County not less than one (1) year at the time the application is filed. This section shall not apply to any applicant who has been continuously licensed pursuant to Tennessee Code Annotated, § 57-3-204 for seven (7) consecutive years. (as added by Ord. #593, June 2017)

8-108. Applicants for certificate who have criminal record. No certificate of compliance for the manufacture or sale at wholesale or retail of alcoholic beverages, or for the manufacture or vinting of wine, shall be issued to any person, (or if the applicant is a partnership, any partner, or if the applicant is a corporation, any stockholder), who, within ten (10) years preceding the application for such certificate of compliance, has been convicted of any felony or of any offense under the laws of the state or of the United States prohibiting the sale, possession, transportation, storage or otherwise handling of intoxicating liquors, or who has during such period been engaged in business, alone or with others, in violation of such laws. (as added by Ord. #593, June 2017)

8-109. Only one establishment to be operated by retailer. No retailer shall operate, directly or indirectly, more than one (1) place of business for the sale of alcoholic beverages in the city. The word "indirectly," as used in this section, shall include and mean any kind of interest in another place of business by way of stock, ownership, loan, partner's interest or otherwise. (as added by Ord. #593, June 2017)

8-110. Where establishments may be located and advertising.

(1) It shall be unlawful for any person to operate or maintain any retail establishment for the sale, storage or distribution of alcoholic beverages in the city except at locations zoned for that purpose. All such stores shall be located within the C-2 General Commercial District as appears on the official zoning map of the City of Dayton on the date of application. In no event will a store be allowed within one hundred feet (100') of any school, church, hospital, or other public gathering place. The distances shall be measured in a straight line, with the measuring points being front door to front door, between the said retail store and the building housing a school, church, hospital, or other public gathering place.

(2) No retail store shall be located within five hundred feet (500') of any other retail store in the City of Dayton. The distance shall be measured in a straight line from the nearest point on the property line upon which sits the building from which the alcoholic beverage will be sold, manufactured or stored to the nearest point on the property line upon which sits the second building from which the alcoholic beverage will be sold, manufactured or stored.

(3) There shall be no advertising signage of any kind whatsoever outside the building containing a retail store, either for the retail store or to advertise any matter pertaining to alcoholic beverages sold at retail stores, except as set forth herein. The provisions of the City of Dayton Zoning Regulations and any other city ordinances or regulations addressing signs shall not apply to retail stores unless any specific restrictions on signs or advertising in the zone where a retail store is located are more restrictive than the regulations contained herein, in which case the more restrictive provision shall apply. There may be placed on the front of a retail store, but not extending therefrom over twelve inches (12"), a sign setting out the name of the retail store. One (1) free standing sign may also be located on the property where the retail store is conducting business. Such signs shall not exceed sixty (60) square feet in dimension. No such sign shall contain letters of neon or tube lighting so as to produce lighting within the letters themselves, though signs lit by back lighting are permitted. No reader board or changeable copy signs shall be permitted. (as added by Ord. #593, June 2017)

8-111. Radios, amusement devices and seating facilities prohibited in retail establishments. No radios, pinball machines, slot machines or other devices which tend to cause persons to congregate in such place shall be permitted in any retail establishment. No seating facilities shall be provided for persons other than employees. (as added by Ord. #593, June 2017)

8-112. Retail stores to be on ground floor; entrances. No retail store shall be located anywhere on premises in the city except on the ground floor thereof. Each such store may have two (2) main entrances opening on a public

street, and such place of business shall have no other entrance for use by the public except as may be provided by Tennessee Code Annotated, § 57-3-404. When a retail store is located on the corner of two (2) public streets, such store may maintain a door opening on each of the public streets. Additionally, any sales room adjoining the lobby of a hotel or other public building may maintain an additional door into such lobby so long as the lobby shall be open to the public. (as added by Ord. #593, June 2017)

8-113. Repealed. (as added by Ord. #593, June 2017, and repealed by Ord. #603, Jan. 2018)

8-114. Sales for consumption on premises. No alcoholic beverages shall be sold for consumption on the premises of the seller. (as added by Ord. #593, June 2017)

8-115. Inspection fee. The City of Dayton hereby imposes an inspection fee in the maximum amount allowed by Tennessee Code Annotated, § 57-3-501 on all licensed retailers of alcoholic beverages located within the corporate limits of the city. (as added by Ord. #593, June 2017)

8-116. Violations. Any violation of the provisions 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. Upon conviction of any person under this chapter, it shall be mandatory for the city judge to immediately certify the conviction, whether on appeal or not, to the Tennessee Alcoholic Beverage Commission. (as added by Ord. #593, June 2017)

8-117. Severability. The provisions of this chapter are hereby declared to be severable and if any provision hereof shall be declared unconstitutional or invalid for any reason, the city council hereby declares that this chapter would have been adopted without such unconstitutional or invalid provision. (as added by Ord. #593, June 2017)

8-118. Section headings. The section headings included herein are solely for assistance in locating the various provisions contained in this chapter; and no such section heading shall be used by construction or otherwise to limit the meaning of the provisions contained in the body of any section. (as added by Ord. #593, June 2017)

CHAPTER 2

BEER

SECTION

8-201. Transportation, storage, etc., subject to regulation. The transportation, storage, distribution, possession, and/or manufacture of beer and/or ale of any alcoholic content of not more than 5% by weight within the corporate limits of Dayton, Tennessee, shall be subject to the regulations hereinafter set out and provided. (1988 Code, § 2-201)

8-202. Application and permit required for selling, storing, etc.; notice. (1) It shall be unlawful for any person to sell, store more than one case, distribute, or manufacture beer within the city without having first obtained a permit and license as provided in this chapter. Before any person is authorized to sell, store more than one case, distribute, or manufacture beer he shall make application to the city council, upon a form prescribed by it, for a permit to do so.

(2) Before the city council issues a license or permit under this section, it shall cause to be published in a newspaper of general circulation a notice

including the name of the applicant, the address of the location for, the license or permit, and the date and time of its meeting at which the application will be considered. The notice shall be published not less than ten (10) days prior to the meeting. The meeting shall be a public hearing for the purpose of hearing the statement of any person or his attorney on any application for a license or permit. (1988 Code, § 2-202)

8-203. Contents of application. The application shall state and establish:

(1) The name and residence address of the applicant and how long the applicant has resided there.

(2) The particular place for which a license is desired, designating it by street and number, if practicable, and if not, by such other apt description as definitely locates it.

(3) The kind of license desired.

(4) The name of the owner of the premises upon which the business licensed is to be carried on.

(5) That the applicant will not engage in the sale, storage, manufacture, or distribution of beer except at the place or places for which the license permit is issued to such applicant; that no sale, storage, manufacture, or distribution of such beverage will be made except in accordance with the permit granted.

(6) That no sale will be made to minors; that the applicant will not permit minors or disorderly or disreputable persons, or persons heretofore connected with the violation of the liquor laws, to loiter around the place of business and that no minors shall be employed in the direct sale, storage, manufacture, or distribution of beer.

(7) That the applicant has not had a license for the sale, storage, manufacture, or distribution of legalized beer revoked.

(8) That neither the applicant nor any person employed or to be employed by him in the distribution, storage, manufacture, or sale of beer has ever been convicted of any violation of laws against the prohibition, sale, manufacture, storage, distribution, or transportation of intoxicating liquor or of any crime involving moral turpitude within the past ten years next preceding the filing of such application.

(9) That the applicant will conduct the business in person for himself, or, if he is acting as agent, the applicant shall state the person, firm, or corporation, syndicate, association, or joint stock company for whom the applicant intends to act.

(10) That no brewer, manufacturer, distributor, or warehouseman of legalized beer has any interest in the business, financial or otherwise, or in the premises upon or in which the business to be licensed to sell beer at retail is to be carried on.

(11) That the applicant is willing to be fingerprinted by the police department of the City of Dayton and is willing to be investigated by municipal, county, state, and federal law enforcement agencies concerning the applicant's background and record.

(12) That the applicant agrees to comply with all the laws of the United States, and of the State of Tennessee, and with all ordinances of the City of Dayton. The application shall be supported by an affidavit or oath that the facts stated therein are true.

(13) That no such beverages will be sold except at places where such sale will not cause congestion of traffic or interference with schools, churches, or other places of public gatherings, or otherwise interfere with public health, safety and morals; further, such beverages shall not be sold within one hundred (100) feet of any school, church, or public gathering place (measured in a straight line, with the measuring points being front door to front door, between the establishment selling said beverages and the building housing a school, church, or other said place of public gathering). (1988 Code, § 2-203, as amended by Ord. #414, Nov. 2000, and Ord. #430, Sept. 2002)

8-204. Licensees must be of good moral character, etc. No permit or license shall be issued except to persons of good moral character who have not been convicted of any violation of the laws against manufacturing, selling, transporting, storing, distributing, or possessing of intoxicating liquors, or of selling or possessing beer illegally, or of any crime involving moral turpitude, within ten (10) years of the date of application; nor shall any permit or license be issued to any firm, corporation, syndicate, joint stock company, or association, which has members, officers, stockholders, or employees who have had such convictions. (1988 Code, § 2-204)

8-205. License to be issued. Any applicant seeking a license or permit under this section and who complies with the conditions and provisions of this section shall have issued to him the necessary license or permit. In the event the license or permit is refused, the applicant shall be entitled to a hearing on his application for the issuance of a license or permit. The refusal to grant a license or permit, or the refusal to grant a hearing upon a person's application for a license or permit, may be reviewed by the Circuit or Chancery Court. (1988 Code, § 2-205)

8-206. Procedure for granting licenses. When an application is made to the city council for a license, the following procedure will apply:

(1) No application for a beer license will be approved without a public hearing to be conducted at the city hall as set out in § 8-202(2). The name of the applicant, name and address of his place of business, and the date of hearing will be announced in the local newspaper in Dayton, Tennessee.

(2) Permits shall be approved or disapproved by the city council in a regular meeting and, if approved, a license shall be issued by the recorder for the City of Dayton upon payment of the license fee provided by law.

(3) Permits so approved shall not be required to be renewed periodically; however, they are subject to revocation or suspension as set out in § 8-215. (1988 Code, § 2-206, as replaced by Ord. #528, Jan. 2010)

8-207. Closing hours, etc. All licensees holding a license to sell beer under this chapter shall observe the closing hours and dates as set out in section 8-214, except that the operator of the business who sells beer in conjunction with another business shall be given authority to operate the other business at hours other than those set out in § 8-214. However, when the other business is being operated, that portion where beer is sold shall be concealed by drapes or other means whereby beer is not in plain view to the public and signs shall be posted denoting that no beer shall be sold during the hours established by§ 8-214. (1988 Code, § 2-207)

8-208. License fees paid in advance; licenses to be displayed; sales by distributors, etc.; licenses not transferable. (1) All license fees shall be paid in advance and shall not be subject to refund in whole or in part for any reason. All permittees and licensees shall display and keep displayed their beer permits and beer licenses in a conspicuous place on the premises where they are licensed to conduct such business.

(2) No manufacturer, distributor, or warehouseman shall sell to anyone except to a licensed beer dealer.

(3) Permits and licenses shall not be transferable. (1988 Code, § 2-208)

8-209. Two (2) types of retail beer permits. Permits for the retail sale of beer issued by the city shall be of two types:

(1) On-premises permits shall be issued for the consumption of beer on the premises.

(2) Off-premises permits shall be issued for sale of beer to be consumed off the premises. (1988 Code, § 2-209)

8-210. Application fees. The city shall be entitled to demand and receive from each applicant an application fee of two hundred and fifty dollars ($250.00) which shall be non-refundable, which shall be paid by the applicant to the recorder of the City of Dayton with the application.[1]

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[1]State law reference

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

This section shall in no way be construed to require the periodic renewal of beer permits or licenses. (1988 Code, § 2-210)

8-211. New permit required when location is moved. When any person moves the location of the place of business where such beverages are sold, then in all cases he shall be required to obtain from the city a new permit in the manner herein provided by application to the city therefor. (1988 Code, § 2-211)

8-212. Licensees required to give bonds. Every person, firm, corporation, or association, before being issued a license to sell at retail within the corporate limits of the City of Dayton any of such beverages permitted to be sold hereunder, shall make and deliver to the recorder to the City of Dayton, who shall be entitled to demand and receive a fee of $2.00 therefor, a joint and several bond in the penalty of one thousand dollars ($1,000.00) payable to the State of Tennessee. The bond shall be signed by some solvent surety company authorized to carry on a general surety business within the State of Tennessee or by solvent personal sureties and shall be conditioned that the principal thereof will pay any fine which may be assessed against such principal by any court of competent jurisdiction for any violation of the provisions of this chapter. (1988 Code, § 2-212, modified)

8-213. Miscellaneous restrictions on persons engaged in beer business. It is hereby declared to be a misdemeanor for any person, firm, corporation, or association engaged in the business regulated hereunder, to make or permit to be made any sales or distribution of such beverages to minors; to employ minors directly in the sale of distribution of such beverages to minors; to employ minors directly in the sale or distribution of such beverages or to permit minors to loiter on the premises; to sell or distribute such beverages to persons intoxicated or under the influence of intoxicating beverages; to sell or distribute such beverages to persons who are feeble-minded, insane, or otherwise mentally incapacitated; to sell or distribute such beverages at any place where gambling or a dance hall is operated or where dancing is allowed or permitted; to employ any person who has been convicted of any violation of the state statutes prohibiting the possession, sale, manufacture, or transportation of intoxicating liquor, or any-other crime involving moral turpitude within the past ten (10) years. Upon conviction of any of the above violations, the person or firm shall be fined under the general penalty clause for this code. (1988 Code, § 2-213)

8-214. Hours of operation restricted. It is declared to be a misdemeanor for any person, firm, corporation, or association to sell or distribute beer, ale, or other beverages with an alcoholic content of not more than 5% by weight within the corporate limits of the City of Dayton, Tennessee,

between the hours of five o'clock A.M. (5:00 A.M.) and eight o'clock A.M. (8:00 A.M.) on weekdays or between the hours of five o'clock A.M. (5:00 A.M.) and twelve o'clock noon (12:00 P.M. on Sundays. (1988 Code, § 2-214, as replaced by Ord. #541, Feb. 2011)

8-215. Suspension or revocation of permits. The city council may suspend or revoke any permit and shall hear and determine complaints brought for that purpose. Any violation of this chapter shall constitute sufficient grounds for the suspension or revocation of any other permit.

Complaints brought for the purpose of suspending or revoking beer permits shall be made in writing and filed with the mayor. He shall thereupon give or cause to be given written notice, accompanied by a copy of the written complaint, commanding the person, persons, firm, corporation, or association to appear at a time and place designated in the notice before the council to show cause why the permit should not be suspended or revoked. The notice shall be served either by registered letter or by a police officer of the City of Dayton at least ten (10) days prior to the date of the hearing when the person, persons, firm, corporation, or association is cited to appear. At the hearing the city council shall publicly hear and determine the nature and merits of the complaint. The mayor is authorized to compel the attendance of witnesses by subpoena. After the hearing the city council may for proper cause suspend or revoke any permit.

Where a permit or license is revoked, no new license or permit shall be issued to permit the sale of alcoholic beverages on the same premises until after the expiration of one (1) year from the date the revocation becomes final and effective.

The city council, acting as 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 ($1,500.00) dollars for each offense of making or permitting to be made any sale to minors, or, a civil penalty not to exceed one thousand ($1,000.00) dollars 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. [(1988 Code, § 2-215)

8-216. Permit required for possession of more than one (1) case of beer. It shall be unlawful for any person to possess in the City of Dayton more than one case of beer without a permit or license. A case of beer, for the purpose of this section, is defined as being the quantity contained in 24-twelve ounce cans or containers, or the equivalent thereof. (1988 Code, § 2-216)

8-217. Possession of open cans of beer on streets, etc., prohibited. It shall be unlawful for any person to possess open cans, bottles, or containers

of beer in motor vehicles in the City of Dayton, or upon the public streets, sidewalks, or other public places in the City of Dayton, not otherwise permitted by this chapter. (1988 Code, § 2-217)

8-218. Emergency closings by council authorized. The city council by resolution may in times of emergency close temporarily any businesses licensed hereunder. (1988 Code, § 2-218)

8-219. Inspection of beer places. The police department of the City of Dayton, or any special police officers appointed by the city manager, shall inspect the places of business and premises of the holders of permits and licenses under this chapter. It shall be unlawful for any permittee or licensee to refuse to permit any such inspection during any time the place is open for business. (1988 Code, § 2-219)

8-220. Violations. Any person violating any provision of this chapter shall be guilty of a misdemeanor, and may be fined under the general penalty clause for this code for such violation. Furthermore, any permittee or licensee violating any provision of this chapter shall be cited to the city council for a suspension or revocation of the permit or license.

Each day's violation of any provision of this chapter by any permit holder or licensee, and each sale made in violation of any provision of this chapter shall constitute a separate offense which shall be punishable by a fine or by suspension or revocation. (1988 Code, § 2-220)

8-221. Sign required--penalty for failure to comply. (1) Each holder of a license or permit to sell, at retail, beer of alcoholic content of not more than five percent (5%) by weight, or any other beverage of like alcoholic content, shall display in a prominent place at the location where such sales are permitted a sign, at lease six (6) inches high and fourteen (14) inches wide stating:

> FELONY. STATE LAW PRESCRIBES A MAXIMUM PENALTY OF FIVE (5) YEARS IMPRISONMENT AND A FINE NOT TO EXCEED $2,500.00 FOR CARRYING WEAPONS WHERE ALCOHOLIC BEVERAGES ARE SOLD OR SERVED.

(2) Failure by the licensee to comply with the provisions of subsection (1) shall subject the licensee to a fine in accordance with the general penalty clause for this code of ordinances. (1988 Code, § 2-221)

8-222. Privilege tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer, an annual privilege tax of one hundred ($100.00) dollars. Any person, firm, corporation, joint stock

company, syndicate or association engaged in the sale, distribution, storage or manufacturer of beer shall remit the tax on January 1, 1994 and each successive January 1, to the City of Dayton, 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. (1988 Code, § 2-222)

TITLE 9

BUSINESS, PROFESSIONS AND OCCUPATIONS[1]

CHAPTER

CHAPTER 1

PEDDLERS, SOLICITORS, ETC.[2]

SECTION

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[1]Municipal code references
Building, plumbing, wiring and housing regulations: title 4.
Health and sanitation: title 13.
Liquor and beer regulations: title 2.
Noise reductions: title 11.
Posting advertisements and notices: title 11.
Privilege taxes: title 6.
Zoning: title 14.

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

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.

(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" organization for charitable or religious organizations.

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

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

(5) "Transient vendor,"[1] means any person who brings into temporary premises and exhibits stocks of merchandise to the public for the purpose of selling or offering to sell the merchandise to the public. Transient vendor does not include any person selling goods by sample, brochure, or sales catalog for future delivery; or to sales resulting from the prior invitation to the seller by the owner or occupant of a residence. For purposes of this definition, "merchandise" means any consumer item that is or is represented to be new or not previously owned by a consumer, and "temporary premises" means any public or quasi-public place including a hotel, rooming house, storeroom, building or part of a building, tent, vacant lot, railroad car, or motor vehicle which is temporarily occupied for the purpose of exhibiting stocks of merchandise to the public. Premises are not temporary if the same person has conducted business at those premises for more than six (6) consecutive months or has occupied the premises as his or her permanent residence for more than six (6) consecutive months.

(6) "Street barker," means any peddler who does business during recognized festival or parade days in the city and who limits his business to selling or offering to sell novelty items and similar goods in the area of the festival or parade. (1988 Code, § 5-101)

9-102. Exemptions. The terms of this chapter shall not apply to persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to persons selling agricultural products, who, in fact, themselves produced the products being sold. (1988 Code, § 5-102)

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.

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[1]State law references

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

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

9-104. 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 solicitation, 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 ten dollars ($10.00). 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. (1988 Code, § 5-104)

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

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

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

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

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

(5) Enter in or upon any premises or attempt to enter in or upon any premises wherein a sign or placard bearing the notice "Peddlers or Solicitors Prohibited," or similar language carrying the same meaning, is located. (1988 Code, § 5-105)

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. (1988 Code, § 5-106)

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. (1988 Code, § 5-107)

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 board of mayor and aldermen. The permit issued to any person or organization under this chapter may be suspended or revoked by the board of mayor and aldermen, after notice and hearing, for the same causes set out in Paragraph (1) above. Notice of the hearing for suspension or revocation of a permit shall be given by the city recorder in writing, setting forth specifically the grounds of complaint and the time and place of the hearing. Such notice shall be mailed to the permit holder at his last known address at least five (5) days prior to the date set for hearing, or it shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing. (1988 Code, § 5-108)

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. (1988 Code, § 5-109)

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 according to the general penalty provision of this municipal code of ordinances. (1988 Code, § 5-110)

CHAPTER 2

PERSONAL PROPERTY SALES

SECTION

9-201. Intent and purpose. The City Council of Dayton, Tennessee, finds and declares that:

(1) The intrusion of nonregulated garaged sales is causing annoyance to the citizens and residential areas in the City of Dayton, and congestion of the streets in residential areas in the City of Dayton.

(2) The provisions contained in this chapter are intended to prohibit the infringement of any businesses in any established residential areas by regulating the term and frequency of garage sales, so as not to disturb or disrupt the residential environment of the area.

(3) The provisions of this chapter are designed to control the operation of garage sales conducted in nonresidential areas where they are not carried on in a daily basis but rather on an occasional basis.

(4) The provisions of this chapter do not seek to control sales by individuals selling a few of their household or personal items.

(5) The provisions and prohibitions hereinafter contained are enacted not to prevent garage sales but to regulate garage sales for the safety and welfare of the city's citizens. (1988 Code, § 5-201)

9-202. Definitions. For the purpose of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number the plural number. The word "shall" is always mandatory and not merely directory.

(1) "Garage sales" means and includes all general sales, open to the public, conducted from or on any premises in any residential or non-residential zone, as defined by the zoning 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 businesses carried on in a non-residential zone where the person conducting the sale does so on a regular day-to-day basis. This definition shall not include a situation where no more than five (5) specific items or articles are held out for sale and all advertisement of the sale specifically names those items to be sold.

(2) "Personal property" means property which is owned, utilized, and maintained by an individual or members of his or her residence and acquired in the normal course of living in or maintaining a residence. It does not include merchandise that was purchased for resale or obtained on consignment. (1988 Code, § 5-202)

9-203. Property permitted to be sold. It shall be unlawful for any person to sell or offer for sale, under authority granted by this chapter, property other than personal property. (1988 Code, § 5-203)

9-204. Permit required. No garage sale shall be conducted until the individuals desiring to conduct the sale obtain a permit therefor from the City of Dayton. Members of more than one residence may join in obtaining a permit for a garage sale to be conducted at the residence of one of them. Permits may be obtained for any non-residential location. (1988 Code, § 5-204)

9-205. Written statement required. Prior to issuance of any garage sale permit, the individuals conducting the sale shall file a written statement with the city manager, at least one (1) day in advance of the proposed sale, (mailed applications must be post marked at least two (2) days in advance of the sale) setting forth the following information:

(1) Full name and address of applicant.

(2) The location at which the proposed garage sale is to be held.

(3) The date or dates upon which the sale will be held. The date or dates of any garage sales held by the applicant within the current calendar year.

(4) An affirmative 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.

(5) An affirmative statement that the applicant will fully comply with this and all other applicable ordinances and laws. (1988 Code, § 5-205)

9-206. Permit fee. There shall be no charge for the issuance of the permit. (1988 Code, § 5-206)

9-207. Permit issuance; conditions. (1) Upon the applicant complying with the terms of this chapter, the city manager or appropriate City Official shall issue a permit.

(2) The permit shall set forth and restrict the time and location of the garage sale. No more than six (6) 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 the permit shall be considered as having been issued for each of the residents. No more than seven (7) permits may be issued for any residential location during any calendar year. (1988 Code, § 5-207)

9-208. Hours of operation. Garage sales shall be limited in time to nine (9:00) o'clock A.M. to six (6:00) o'clock P.M. (1988 Code, § 5-208)

9-209. Exceptions. (1) If sale not held because of inclement weather. If a garage sale is not held on the dates for which the permit is issued or is terminated during the first day of the sale because of inclement weather, and an affidavit by the permit holder to this effect is submitted, the city manager or appropriate city official may issue another permit to the applicant for a garage sale to be conducted at the same location within thirty (30) days form the date when the first sale was to be held.

(2) Seventh sale permitted. A seventh garage sale shall be permitted in a calendar year if satisfactory proof of a bona fide change in ownership of the real property is first presented to the city manager or appropriate city official. (1988 Code, § 5-209)

9-210. Pre-permit investigation. Before issuing, a permit, the city manager or his duly authorized representative shall conduct an investigation to determine if there is compliance with this chapter. The city manager or his duly

authorized representative may make such investigations as are necessary to carry out their responsibilities under this chapter. (1988 Code, § 5-210)

9-211. Display of sale property. Personal property offered for sale may be displayed within the residence in a garage, carport, and/or in a front, side, or rear yard, but only in such areas. No personal property offered for sale at a garage sale shall be displayed in any public right-of-way. A vehicle offered for sale may be displayed on a permanently constructed driveway within a front or side yard. (1988 Code, § 5-211)

9-212. Display of permit. Any permit in possession of the holder or holders of a garage sale shall be posted on the premises in a conspicuous place so as to be seen by the public, a representative of the City of Dayton, or his duly authorized representative. (1988 Code, § 5-212)

9-213. Advertising; signs. (1) Signs permitted. Only the following specified signs may be displayed in relation to a pending garage sale:

(a) Two 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 garage sale is being conducted.

(b) Directional signs. Two (2) signs of not more than two (2) square feet each are permitted, provided that the premises on which the 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 the 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 the sale is to commence.

(3) Removal of signs. Signs must be removed each day at the close of garage sale activities. (1988 Code, § 5-213)

9-214. Public nuisance. The individual to whom the permit is issued and the owner or tenant of the premises on which the sale or activity is conducted shall be jointly and severally responsible for the maintenance of good order and decorum on the premises during all hours of the sale or activity. No such individual shall permit any loud or boisterous conduct on the premises, nor permit vehicles to impede the passage of traffic on any roads or streets in the area of the premises. All such individuals shall obey the reasonable orders of any member of the police or fire departments of the City of Dayton in order to maintain the public health, safety and welfare. (1988 Code, § 5-214)

9-215. Police officers to enforce. Police officers shall enforce the provisions of this chapter not specifically to be enforced by other officials. (1988 Code, § 5-215)

9-216. Parking. All parking of vehicles shall be conducted in compliance with all applicable laws and ordinances. Further, the police department may enforce temporary controls to alleviate any special hazards and/or congestion created by any garage sale. (1988 Code, § 5-216)

9-217. Revocation and refusal of permit. (1) False information. Any permit used under this chapter may be revoked or any application for issuance of a permit may be refused by the city manager or his designated representative if the application submitted by the applicant or permit holder contains any false, fraudulent, or misleading statements.

(2) Conviction of violation. If any individual is convicted of any offense under this chapter, the city manager or his designated representative is instructed to cancel any existing garage sale permit held by the individual convicted and not to issue the individual another garage sale permit for a period of two (2) years from the date of the conviction. (1988 Code, § 5-217)

9-218. Persons exempted from chapter. The provision of this chapter shall not apply to or affect the following:

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

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

(3) Any sale conducted by any merchant or mercantile or other business establishment on a regular day-to-day basis from or at the place of business wherein the sale would be permitted by zoning regulations of the City of Dayton or under the protection of the nonconforming use section thereof or any other sale conducted by a manufacturer, dealer, or vendor which is conducted from properly zoned premises and not otherwise prohibited in other ordinances.

(4) Any bona fide charitable, eleemosynary, education, cultural, or governmental institution or organization when the proceeds from the sale are used directly for the institution's or organization's charitable purposes and the goods or articles are not sold on a consignment basis. (1988 Code, § 5-218)

9-219. Separate violation. Every article sold and every day a sale is conducted in violation of this chapter shall constitute a separate offense. (1988 Code, § 5-219)

9-220. Penalty. Any person found guilty of violating the terms of this ordinance shall be fined in accordance with the general penalty clause for this code. (1988 Code, § 5-220)

CHAPTER 3

POOL AND GAME ROOMS, PINBALL MACHINES, ETC.

SECTION

9-301. Pool and game rooms. (1) Definition of coin operated amusement device. "Coin-operated amusement device" means any coin or token operated game, machine, or device which , as a result of depositing a coin, taken, or other object automatically or by or through some mechanical or electronic operation involving skill, chance, or a combination thereof, affords music, amusement, or entertainment of some character without vending any merchandise. "Coin-operated amusement device" shall include, but shall not be limited to, the following: Coin-operated pool tables, juke boxes, and video games which may require the operation of buttons, sticks, knobs or the like; video amusement machines; video card games; and shall not include any bona fide merchandise vending machines as defined in Tennessee Code Annotated, § 67-4-503 or any device operated for the purpose of unlawful gambling, or a pinball machine as defined in Tennessee Code Annotated, § 39-6-631, or an individually owned amusement device located in a private dwelling and intended for the exclusive private enjoyment of the owner and his guests and not used or operated for gain, profit, or other commercial purpose.

(2) Reductions on hours of operation; exception. It shall be unlawful for any person to open, maintain, conduct, or operate any place where a "coin-operated amusement device" or pool tables or billiard tables are kept for public use or hire at any time between the hours of 12:00 P.M. and 8:00 A.M.

The closing hours as set forth above shall not apply to an establishment where pool tables or billiard tables or coin-operated amusement devices are located unless fifty percent (50%) or more of the establishment's income derived for the operation of these devices, i.e. pool tables, billiard tables, or coin-operated amusement devices.

(3) To be on street floor, etc. All places where non-coin-operated pool tables or non-coin-operated billiard tables are kept for public use or hire shall be located on the street floor, and shall front on a public street, and shall offer a clear and unobstructed view of their interior from the street or sidewalk.

(4) Minors to be kept out; exception. It shall be unlawful for any person engaged regularly or otherwise in keeping billiard, bagatelle, pool rooms or tables, or coin-operated amusement devices, or for their employees, agents,

servants, or other persons for them, knowingly to permit any person under the age of eighteen (18) years to play on these tables at any game of billiards, bagatelle, pool or other games requiring the use of cue and balls, or on coin-operated amusement devices, without first having obtained the written consent of the minors legal guardian.

(5) Gambling, etc., not to be allowed. It shall be unlawful for any person operating, conducting, or maintaining any place where pool tables, billiard tables, or coin-operated amusement devices are kept for public use or hire, to permit any gambling or other unlawful or immoral conduct on such premises. (1988 Code, § 5-301)

9-302. Minors prohibited from playing pinball machines. No person under the age of eighteen (18) years shall play or operate on such premises any pinball machine or any game of miniature football, golf, baseball, or any other miniature game, whether made playable by a mechanical device or otherwise, or whether the charge for playing is collected by mechanical device or otherwise. (1988 Code, § 5-302)

9-303. Operators of businesses required to prohibit minors from playing pinball machines. No owner, operator, manager, or person in charge of any restaurant, cafe, filling station, beer tavern, hotel, motel, drug store, or any other store, establishment, place of business or otherwise, or any employee therein, shall allow any person under the age of eighteen (18) years to play or operate on such premises any pinball machine or any game of miniature football, golf, baseball, or any other miniature game, whether made playable by a mechanical device or otherwise.

It shall be the duty of the owner, operator, manager, person in charge, or employee to ascertain or determine the age of any such player, and ignorance of the age or misinformation relative thereto shall not excuse the owner, operator, manager, person in charge, or employee. (1988 Code, § 5-303)

CHAPTER 4

(this chapter was repealed by Ord. #606, Jan. 2018)

CHAPTER 5

CABLE TELEVISION

SECTION

9-501. To be furnished under franchise. Cable television shall be furnished to the City of Dayton and its inhabitants under franchise granted by the City Council of the City of Dayton, Tennessee. The rights, powers, duties and obligations of the City of Dayton and its inhabitants are clearly stated in the franchise agreement executed by, and which shall be binding upon the parties concerned.[1] (1988 Code, § 5-501, modified)

[1]Franchise agreements are available in the office of the city recorder.

CHAPTER 6

TAXICABS

SECTION

9-601. Taxicab franchise and privilege license required. It shall be a civil offense for any person to engage in the taxicab business unless he has first obtained a taxicab franchise from the city and has a currently effective privilege license. (Ord. #399, March 2000)

9-602. Requirements as to application and hearing. No person shall be eligible to apply for a taxicab franchise if he has a bad character or has been convicted of a felony within the last ten (10) years. Application for taxicab franchises shall be made under oath and in writing to the city recorder. The applications shall state the name and address of the applicant, the name and address of the proposed place of business, the number of cabs the applicant desires to operate, the makes and models of said cabs, and such other pertinent information as the city recorder may require. The application shall be accompanied by at least two (2) affidavits of reputable local citizens attesting to the good character and reputation of the applicant. Within ten (10) days after receipt of an application, the chief of police shall make a thorough investigation of the applicant; determine if there is a public need for additional taxicab service; present the application to the mayor and city councilmen; and make a recommendation to either grant or refuse a franchise to the applicant. The city council shall thereupon hold a public hearing at which time witnesses for and

against the granting of the franchise shall be heard. In deciding whether or not to grant the franchise, the city council shall consider the public need for additional service, the increased traffic congestion, parking space requirements, and whether or not the safe use of the streets by the public, both vehicular and pedestrian, will preserved by the granting of such an additional franchise. Those persons already operating taxicabs when this code is adopted shall not be required to make applications under this section but shall be required to comply with all the other provisions thereof. (Ord. #399, March 2000)

9-603. Liability insurance or bond required. No taxicab franchise shall be issued or continued in operation unless there is in full force and effect a liability insurance policy or bond for each vehicle authorized in an amount equal to that required by the state's financial responsibility law as set out in Tennessee Code Annotated, title 55, chapter 12. The insurance policy or bond required by this section shall contain a provision that it shall not be cancelled except after at least twenty (20) days' written notice is given by the insuror to both the insured and the recorder of the city. (Ord. #399, March 2000)

9-604. Revocation or suspension of franchise. The city council, after a public hearing, may revoke or suspend any taxicab franchise for misrepresentations or false statements made in the application therefor or for traffic violations or violations of this chapter by the taxicab owner or any driver. (Ord. #399, March 2000)

9-605. Mechanical condition of vehicles. It shall be a civil offense for any person to operate any taxicab in the city unless such taxicab is equipped with four (4) wheel brakes, front and rear lights, safe tires, horn, muffler, windshield wipers, and rear vision mirror, all of which shall conform to the requirements of the state motor vehicle law. Each taxicab shall be equipped with a handle or latch or other opening device attached to each door of the passenger compartment so that such doors may be operated by the passenger from the inside of the taxicab without the intervention or assistance of the driver. The motor and all mechanical parts shall be kept in such condition or repair as may be reasonably necessary to provide for the safety of the public and the continuous satisfactory operation of the taxicab. (Ord. #399, March 2000)

9-606. Cleanliness of vehicles. All taxicabs operated in the city shall, at all times, be kept in a reasonably clean and sanitary condition. They shall be thoroughly swept and dusted at least once each day. At least once every week they shall be thoroughly washed and the interior cleaned with a suitable antiseptic solution. (Ord. #399, March 2000)

9-607. Inspection of vehicles. All taxicabs shall be inspected at least semiannually by the chief of police to insure that they comply with the requirements of this chapter with respect to mechanical condition, cleanliness, etc. (Ord. #399, March 2000)

9-608. License and permit required for drivers. No person shall drive a taxicab unless he is in possession of a state special chauffeur's license and a taxicab driver's permit issued by the chief of police. (Ord. #399, March 2000)

9-609. Qualifications for driver's permit. No person shall be issued a taxicab driver's permit unless he complies with the following to the satisfaction of the chief of police:

(1) Makes written application to the chief of police.

(2) Is at least eighteen (18) years of age and holds a state special chauffeur's license.

(3) Undergoes an examination by a physician and is found to be of sound physique, with good eyesight and hearing and not subject to epilepsy, vertigo, heart trouble or any other infirmity of body or mind which might render him unfit for the safe operation of a public vehicle.

(4) Is clean in dress and person and is not addicted to the use of intoxicating liquor or drugs.

(5) Produces affidavits of good character from two (2) reputable citizens of the city who have known him personally and have observed his conduct for at least two (2) years next preceding the date of his application.

(6) Has not been convicted of a felony, drunk driving, driving under the influence of an intoxicant or drug, or of frequent minor traffic offenses.

(7) Is familiar with the state and local traffic laws. (Ord. #399, March 2000)

9-610. Revocation or suspension of driver's permit. The city council, after a public hearing, may revoke or suspend any taxicab driver's permit for violation of traffic regulations, for violation of this chapter, or when the driver ceases to possess the qualifications as prescribed in § 9-609. (Ord. #399, March 2000)

9-611. Drivers not to solicit business. All taxicab drivers are expressly prohibited from indiscriminately soliciting passengers or from cruising

upon the streets of the city for the purpose of obtaining patronage for their cabs. (Ord. #399, March 2000)

9-612. Parking restricted. It shall be a civil offense to park any taxicab on any street with the intent to transact business. It is provided, however, that taxicabs may stop upon any street for the purpose of picking up or discharging passengers if such stops are made in such manner as not unreasonably to interfere with or obstruct other traffic and provided the passenger loading or discharging is promptly accomplished. (Ord. #399, March 2000)

9-613. Drivers to use direct routes. Taxicab drivers shall always deliver their passengers to their destinations by the most direct available route. (Ord. #399, March 2000)

9-614. Taxicabs not to be used for illegal purposes. No taxicab shall be used for or in the commission of any illegal act, business, or purpose. (Ord. #399, March 2000)

9-615. Miscellaneous prohibited conduct by drivers. It shall be a civil offense for any taxicab driver, while on duty, to be under the influence of, or to drink any intoxicating beverage or beer; to use profane or obscene language; to shout or call to prospective passengers; to unnecessarily blow the automobile horn; or to otherwise disturb the peace, quiet, and tranquility of the city in any way. (Ord. #399, March 2000)

9-616. Transportation of more than one passenger at the same time. No person shall be admitted to a taxicab already occupied by a passenger without the consent of such other passenger. (Ord. #399, March 2000)

CHAPTER 7

FARMERS MARKET

SECTION

9-701. Establishment and bounds of the farmers market. (1) There is hereby established within the city limits of the City of Dayton, Tennessee, a farmers market. The farmers market is hereby located on Third Avenue between Market Street and Court Street. However, the City Council for the City of Dayton, Tennessee, may change the location of the farmers market from time to time by resolution of the governing body of the City of Dayton.

(2) The purpose of establishing a farmers market is to provide a safe and convenient place for farmers to sell their produce and citizens to make their purchases safely and without impeding the flow of traffic on and about Third Avenue and the Rhea County Courthouse and to local businesses and government offices. (as added by Ord. #471, March 2006)

9-702. Who may use the farmers market. The privilege of using the farmers market may be extended to vendors for the purpose of selling, offering for sale, or exposing for sale, produce, vegetables, fruits, plants, and any other product of farm and garden, other than live animals, but including canned goods, grown in the State of Tennessee during its appropriate growing season by farmers, truck growers, fruit growers and horticulturists who are citizens and residents of the State of Tennessee. (as added by Ord. #471, March 2006)

9-703. Hours of the farmers market. (1) The hours during which the farmers market may be occupied and used by those to whom the privilege of such use is extended are Monday through Sunday from daylight to dark, but not to be operated after 9:00 o'clock PM EST in any circumstance.

(2) No empty or partially loaded or loaded vehicle, trailer, etc. shall be allowed to occupy any portion of the farmers market for the purpose of

pre-empting a position thereon. Further, no vehicle, trailer, awning, etc. shall remain on the premises after the hour of 9:00 o'clock PM EST. Vehicles and trailers, etc. found to be in violation of this provision shall be towed at the owner's expense.

(3) No vehicle shall be parked or exposed upon the farmers market for the purpose of selling that vehicle. Vehicles found to be in violation of this provision shall be towed at the owner's expense. (as added by Ord. #471, March 2006)

9-704. Hucksters, peddlers, etc. shall not use the farmers market. It shall be unlawful for any huckster, peddler, operator of a rolling store, or any other person than one to whom the privilege has been extended under the provisions of this chapter to come upon or to take any position upon the area of the farmers market at any time for the purpose of selling, offering for sale, or exposing for sale any fruits, vegetables, produce, canned items, meats, or any other article or item whatsoever. (as added by Ord. #471, March 2006)

9-703. Parking space and traffic flow to be designated. Parking spaces and lanes shall be marked as such. It shall be unlawful for any person to park a vehicle in other than a designated parking space and it shall also be unlawful to obstruct areas designated for traffic flow. (as added by Ord. #471, March 2006)

9-706. Health regulations. All participants/vendors in the farmers market shall comply with all federal, state and local health rules and regulations. (as added by Ord. #471, March 2006)

9-707. Hold harmless and indemnification. All vendors participating in the farmers market shall be individually and severally responsible to the City of Dayton, Tennessee for any loss, personal injury, deaths, property damage and/or loss, and/or any other damage that may occur as a result of the vendors' negligence or that of its servants, agents, and employees, and all vendors hereby agree to indemnify and save the City of Dayton harmless from any loss, cost, damages, and any and all other expenses and costs, including but not limited to, attorney fees and court costs, suffered or incurred by the City of Dayton, Tennessee by reason of the vendor's negligence or that of its servants, agents and employees; provided that the vendors shall not be responsible nor required to indemnify the City of Dayton, Tennessee for negligence of the City of Dayton, Tennessee, its servants, agents and employees. No insurance is provided to participants and vendors in the farmers market and each vendor and participant will need to obtain his/her own liability insurance. (as added by Ord. #471, March 2006)

9-708. Sales taxes and licenses. Each vendor is responsible for collecting his/her own sales taxes, where it is applicable. Further, each vendor is responsible for obtaining any and all licenses and permits required by federal, state and local law, where applicable. (as added by Ord. #471, March 2006)

9-709. Permit required. (1) Every person who is privileged to occupy and use the farmers market for selling, offering for sale, or exposing for sale the articles that may be sold thereon shall first before going upon the farmers market make an application for a permit at the City Hall (municipal building) for the City of Dayton located at 399 1st Avenue in Dayton, Tennessee, in writing and upon a farmers market application form being completed, the applicant must file the application with the City of Dayton, with the contents of said application to be subscribed and sworn to by the applicant. Additionally, each applicant shall pay a five ($5.00) Dollar application fee prior to a permit being issued. The permit shall be carried by the person to whom it has been issued to at all times while the person is present on the farmers market. It shall be unlawful for any person to whom a permit has not been issued to go upon and occupy any space of the farmers market for the purpose of selling thereon.

(2) No holder of a permit shall allow any person other than himself/herself or the persons stated on the application to have or use the permit for the purpose of occupying a space and selling on the farmers market.

(3) It shall be unlawful for any person to make, use, have in his/her possession, or exhibit any false or counterfeit permit.

(4) The making of an application for a permit and the issuance of a permit to any bona fide farmer, grower, horticulturist, or other person under this chapter who is a citizen and resident of the State of Tennessee shall not entitle the holder to use any particular space thereon to such holder of a permit. The provisions of this chapter are designed to prevent the preemption of any particular space by any permittee and to secure sanitary conditions of use and occupation of the farmers market by those to whom the privilege is extended. The requirements as to application for and issuance of permits are designed to keep the use of the farmers market for those only to whom the privilege of use has been extended by the provisions of this chapter. (as added by Ord. #471, March 2006)

9-710. Permit expiration; renewal; suspension; revocation. A permit issued pursuant to this chapter shall be valid for the calendar year in which the permit is issued, with permits expiring each December 31 of every year.

A permit may be suspended or revoked by the codes enforcement officer for the City of Dayton when the provisions of this chapter have been violated. Upon being notified of an alleged violation of this chapter, the codes enforcement officer shall investigate the complaint. Any person found to have violated the provisions of this chapter shall receive at least a written warning initially, but

may, depending upon the severity of the violation, have his/her permit suspended or revoked for a period not to exceed one (1) year. However, in the event an offender has been found to have violated the provisions of this chapter on three (3) or more occasions within any twelve (12) month period, the offender shall have his permit suspended or revoked for a period of one (1) year. Said offender may reapply for a permit at the expiration of the one (1) year revocation period. Persons who have had their permit suspended or revoked for violations of this chapter may appeal the decision to the city manager in writing within fifteen (15) days from the time their privileges were revoked. The city manager shall investigate the matter and render a decision in writing. Any appeal of the City manager's decision shall be made to the city council and directed to the mayor in writing within thirty (30) days from the date of the city manager's decision. (as added by Ord. #471, March 2006)

9-711. Cleanup. All vendors shall clean up their areas at the end of each day. Vendors shall be responsible for the cleanliness of their selling areas. All vendors agree to keep the farmers market free of any trash and debris generated by the market activity. Any vendor found to be in violation of this section may have his/her permit suspended or revoked and shall be responsible for the costs of cleanup incurred by the City of Dayton. (as added by Ord. #471, March 2006)

9-712. Miscellaneous. No firearms and alcoholic beverages are permitted at or on the farmers market. (as added by Ord. #471, March 2006)

TITLE 10

ANIMAL CONTROL

CHAPTER
1. IN GENERAL.
2. DOGS.

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. Cruel treatment prohibited.
10-107. Birds not to be trapped, hunted, or shot, etc.
10-108. Seizure and disposition of animals.

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

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. (1988 Code, § 3-101)

10-102. Keeping near a residence or business restricted. Swine are prohibited within the corporate limits. No person shall keep or allow any other animal or fowl enumerated in the preceding section to come within one thousand (1,000) feet of any residence, place of business, or public street, as measured in a straight line. (1988 Code, § 3-102)

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

enclosure in which they are kept shall at all times be maintained in a clean and sanitary condition. (1988 Code, § 3-103)

10-104. Adequate food, water, and shelter, etc., to be provided. No animal or fowl shall be kept or confined in any place where the food, water, shelter, and ventilation are not adequate and sufficient for the preservation of its health, safe condition, and wholesomeness for food if so intended. (1988 Code, § 3-104)

10-105. Keeping in such manner as to become a nuisance prohibited. No animal or fowl shall be kept in such a place or condition as to become a nuisance because of either noise, odor, contagious disease, or other reason. (1988 Code, § 3-105)

10-106. Cruel treatment prohibited. It shall be unlawful for any person to beat or otherwise abuse or injure any dumb animal or fowl. (1988 Code, § 3-106)

10-107. Birds not to be trapped, hunted, or shot, etc. It shall be unlawful to trap, hunt, shoot, or attempt to shoot or molest in any manner any bird or wild fowl, or to rob birds' nests or wild fowls' nests. If starlings or similar birds are found to be congregating in such numbers in a particular locality that they constitute a nuisance or menace to health or property in the opinion of the proper health authorities of the City of Dayton, then the health authorities shall meet with representatives of the Audubon Society, Bird Club, Garden Club, or Humane Society, or as many of these clubs as there are in the City of Dayton. If, as a result of the meeting, no satisfactory alternative is found to abate the nuisance, the birds may be destroyed in such numbers and in such manner as deemed advisable by the health authority under the supervision of the Chief of Police of the City of Dayton. (1988 Code, § 3-107)

10-108. 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 any police officer or other properly designated officer or official and confined in a pound provided or designated by the mayor and Dayton City Council or other properly designated officer or official. 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. The notice shall state that the impounded animal or fowl must be claimed within five (5) days by paying the pound costs or the same will be humanely destroyed or sold. If not claimed by the owner, the animal or fowl shall be sold or humanely destroyed, or it may otherwise be disposed of as authorized by the city council.

The pound keeper shall collect fees from each person claiming an impounded dog in accordance with the schedule set forth in title 10, Animal Control, chapter 2, Dogs, § 3-206, Seizure and Disposition of Dogs. (1988 Code, § 3-108, as amended by Ord. #421, July 2001)

CHAPTER 2

DOGS

SECTION

10-201. Rabies vaccination and registration required. It shall be unlawful for any person to own, keep, or harbor any dog without having the same duly vaccinated against rabies and registered in accordance with the provisions of the "Tennessee Anti-Rabies Law" (Tennessee Code Annotated, §§ 68-8-101 through 68-8-114) or other applicable law. (1988 Code, § 3-201)

10-202. Dogs to wear tags. It shall be unlawful for any person to own, keep, or harbor any dog which does not wear a tag evidencing the vaccination and registration required by the preceding section. (1988 Code, § 3-202)

10-203. Running at large prohibited.[1] It shall be unlawful for any person knowingly to permit any dog owned by him or under his control to run at large within the corporate limits. (1988 Code, § 3-203)

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. (1988 Code, § 3-204)

10-205. Noisy dogs prohibited. No person shall own, keep, or harbor any dog which, by loud and frequent barking, whining, or howling, annoys, or disturbs the peace and quiet of any neighborhood. (1988 Code, § 3-205)

10-206. Seizure and disposition of dogs. (1) Any dog found running at large may be seized by any police officer or any other properly designated officer or official and placed in a pound provided or designated by the mayor and

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

Dayton City Council. If said dog is wearing a tag the owner shall be notified in person, by telephone, or by a postcard addressed to his last-known mailing address to appear within five (5) days and redeem his dog by paying a reasonable pound fee, in accordance with a schedule approved by the mayor and Dayton City Council, or the dog will be humanely destroyed. If said dog is not wearing a tag it shall be sold or humanely destroyed unless legally claimed by the owner within five (5) 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.

(2) The pound keeper shall collect fees from each person claiming an impounded dog in accordance with the following schedule:

(a) The fee for impounding a dog found running at large shall be twelve dollars ($12.00).

(b) The fee for vaccination of any dog shall be ten dollars ($10.00).

(c) The pound keeper shall collect an additional fee of three dollars ($3.00) per day for which the dog has been kept.

(d) Additionally, there shall be a pick up fee of ten dollars ($10.00) collected for any dog impounded.

(e) The fee for adopting a dog shall be twenty dollars ($20.00). Additionally, the dog must receive a rabies vaccination prior to adoption. The adoptee shall be responsible for the vaccination fee of ten dollars ($10.00). Furthermore, the City of Dayton accepts no liability and makes no guarantee regarding the acceptability, suitability or health of such animals, fowl, or dogs as may be adopted. (1988 Code, § 3-206, as amended by Ord. #421, July 2001).

10-207. 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. (1988 Code, § 3-207)

TITLE 11

MUNICIPAL OFFENSES[1]

CHAPTER

CHAPTER 1

MISDEMEANORS OF THE STATE ADOPTED

SECTION

11-101. Misdemeanors of the state adopted. All offenses against the State of Tennessee which are committed within the corporate limits and which are defined by the state law or are recognized by the common law to be misdemeanors are hereby designated and declared to be offenses against this city also. Any violation of any such law within the corporate limits is also a violation of this section. (1988 Code, § 10-101)

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

CHAPTER 2

ALCOHOL[1]

SECTION
11-201. Drinking beer, alcoholic beverages in public, etc.
11-202. Minors in beer places.

11-201. Drinking beer, 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. (1988 Code, § 10-202)

11-202. 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 consumption on the premises. (1988 Code, § 10-203)

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

CHAPTER 3

FORTUNE TELLING, ETC.

SECTION
11-301. Fortune telling, etc.

11-301. Fortune telling, etc. It shall be unlawful for any person to hold himself forth to the public as a fortune teller, clairvoyant, hypnotist, spiritualist, palmist, phrenologist, or other mystic endowed with supernatural powers. (1988 Code, § 10-303)

CHAPTER 4

OFFENSES AGAINST THE PEACE AND QUIET

SECTION
11-401. Disturbing the peace.
11-402. Anti-noise regulations.

11-401. Disturbing the peace. No person shall disturb, tend to disturb, or aid in disturbing the peace of others by violent, tumultuous, offensive, or obstreperous conduct, and no person shall knowingly permit such conduct upon any premises owned or possessed by him or under his control. (1988 Code, § 10-501)

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

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

(a) Blowing horns. The sounding of any horn or signal device on any automobile, motorcycle, bus, truck, or 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, 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.

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

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

(a) 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 board of mayor and aldermen. Hours for the use of an amplifier or public address system will be designated in the permit so issued and the use of such systems shall be restricted to the hours so designated in the permit. (1988 Code, § 10-502)

CHAPTER 5

INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL

SECTION

11-501. Impersonating a government officer or employee. No person other than an official police officer of the city shall wear the uniform, apparel, or badge, or carry any identification card or other insignia of office like or similar to, or a colorable imitation of that adopted and worn or carried by the official police officers of the city. Furthermore, no person shall deceitfully impersonate or represent that he is any government officer or employee. (1988 Code, § 10-602)

11-502. False emergency alarms. It shall be unlawful for any person intentionally to make, turn in, or give a false alarm of fire, or of need for police or ambulance assistance, or to aid or abet in the commission of such act. (1988 Code, § 10-603)

11-503. Escape from custody or confinement. It shall be unlawful for any person under arrest or otherwise in custody of or confined by the city to escape or attempt to escape, or for any other person to assist or encourage such person to escape or attempt to escape from such custody or confinement. (1988 Code, § 10-601)

11-504. Resisting or interfering with an officer or fire fighter. It shall be unlawful for any person knowingly to resist or in any way interfere with or attempt to interfere with any police officer or fire fighter if such officer is in the discharge or apparent discharge of his duty. (1988 Code, § 10-604)

CHAPTER 6

FIREARMS, WEAPONS AND MISSILES

SECTION
11-601. Air rifles, etc.
11-602. Throwing missiles.
11-603. Weapons and firearms generally.

11-601. Air rifles, etc. It shall be unlawful for any person in the city to discharge any air gun, air pistol, air rifle, "BB" gun, or sling shot capable of discharging a metal 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. (1988 Code, § 10-701)

11-602. Throwing missiles. It shall be unlawful for any person maliciously to throw any stone, snowball, bottle, or any other missile upon or at any vehicle, building, tree, or other public or private property or upon or at any person. (1988 Code, § 10-702)

11-603. Weapons and firearms generally. It shall be unlawful for any unauthorized person to discharge a firearm within the municipality. (1988 Code, § 10-703)

CHAPTER 7

TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC

SECTION

11-701. 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. (1988 Code, § 10-801)

11-702. Malicious mischief. It shall be unlawful and deemed to be malicious mischief for any person willfully, maliciously, or wantonly to damage, deface, destroy, conceal, tamper with, remove, or withhold real or personal property which does not belong to him. (1988 Code, § 10-802)

11-703. Interference with traffic. It shall be unlawful for any person to stand, sit, or engage in any activity whatever on any public street, sidewalk, bridge, or public ground in such a manner as to prevent, obstruct, or interfere with the free passage of pedestrian or vehicular traffic thereon. (1988 Code, § 10-803)

CHAPTER 8

MISCELLANEOUS

SECTION
11-801. Abandoned refrigerators, etc.
11-802. Caves, wells, cisterns, etc.
11-803. Curfew.
11-804. Cruising.

11-801. 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. (1988 Code, § 10-902)

11-802. Caves, wells, cisterns, etc. It shall be unlawful for any person to permit to be maintained on property owned or occupied by him any cave, well, cistern, or other such opening in the ground which is dangerous to life and limb without an adequate cover or safeguard. (1988 Code, § 10-901)

11-803. Curfew. It shall be unlawful for any person to loiter or linger upon the public streets, alleys, sidewalks, and other public property, or upon the private property of other persons without the consent of said persons, within the corporate limits of the City of Dayton, from 12:01 A.M., until dawn.

The city council shall have the authority to extend the hours of curfew for a period of time earlier than 12:01 A.M., until dawn, by resolution, during times of emergency. The hours prescribed in the resolution shall be published in a local paper, or by radio, prior to the effective date. (1988 Code, § 10-804)

11-804. Cruising. (1) Owners and operators of shopping centers and restaurants in the city shall post signs on and about the parking areas and private roadways on their properties giving notice that cruising on the property is prohibited.

(2) The term "cruising" as used in this section is defined as the continual, repeated, and aimless operation of a motor vehicle back and forth, through, around, or within the parking areas and private roadways of a shopping center or restaurant after 6 o'clock P.M. until the following sunrise other than for the purpose of entering or leaving a parking space where the vehicle has been parked while the driver or passenger is or was visiting the shopping center, business, or restaurant.

(3) It shall be a violation of this section and a trespass for any person to cruise on any shopping center or restaurant parking area, or private roadways that have been posted by the owner or operator as authorized in this section. (1988 Code, § 10-805)

CHAPTER 9

GAMBLING

SECTION

11-901. Gambling. It shall be unlawful for any person to play at any game of hazard or chance for money or other valuable thing or to make or accept any bet or wager for money or other valuable thing. (1988 Code, § 10-301)

11-902. Promotion of gambling. It shall be unlawful for any person to encourage, promote, aid, or assist the playing at any game, or the making of any bet or wager, for money or other valuable thing, or to possess, keep, or exhibit for the purpose of gambling, any gaming table, device, ticket, or any other gambling paraphernalia. (1988 Code, § 10-302)

CHAPTER 10

OBSCENITY, MORALS

SECTION

11-1001. Definitions. As used in this section, unless the context clearly indicates otherwise:

(1) "Community" when used in connection with "contemporary community standards," means the geographical area within the jurisdiction of the court hearing the case.

(2) "Harmful to minors" includes any material or performance, whether through pictures, photographs, drawings, writings, cartoons, recordings, telephonic transmissions, films, video tapes or other such medium, which is harmful to minors if the following apply:

(a) The average person, applying contemporary community standards, would fined that the material or performance, taken as a whole, appeals to the prurient interest of minors in sex.

(b) The material or performance depicts or describes sexually explicit nudity, sexual conduct, sadomasochistic sexual abuse or lewd exhibition of the genitals, in a way which is patently offensive to prevailing standards in the adult community with respect to what is suitable for minors.

(c) The material or performance, taken as a whole, lacks serious literary, artistic, political, or scientific value for minors.

(3) "Knowledge of character" means having general knowledge or reason to know, or a belief or a ground for belief which warrants further inspection or inquiry, of the nature and character of the material or performance involved. A person has such knowledge when he or she knows or is aware that the material or performance contains, depicts or describes sexually explicit nudity, sexual conduct, sadomasochistic sexual abuse, or lewd exhibition of the genitals, whichever is applicable, whether or not such person has precise knowledge of the specific contents thereof. Such knowledge may be proved by direct or circumstantial evidence, or both.

(4) "Material" means any book, magazine, newspaper, advertisement, pamphlet, poster, print, picture, figure, image, drawing, description, motion picture film, phonographic record or recording tape, video tape or other tangible thing capable of producing or reproducing an image, picture, sound or sensation through sight, sound or touch.

(5) "Minor" means any person under the age of eighteen (18) years.

(6) "Obscene" means any material or performance, whether through pictures, photographs, drawings, writings, cartoons, recordings, films, video tapes, telephonic transmissions, or other medium to which the following apply:

(a) The average person, applying contemporary adult community standards, would find that the material or performance taken, as a whole, appeals to the prurient interest.

(b) The material or performance depicts or describes, in a patently offensive way, sexual conduct, sadomasochistic sexual abuse, or lewd exhibition of the genitals.

(c) The material or performance, taken as a whole, lacks serious literary, artistic, political or scientific value.

(7) "Performance" means any motion picture, film, video tape, played record, phonograph or tape, broadcast preview, trailer, play, show, skit, dance, or other exhibition performed or presented to or before any audience of one or more, or transmission by way of electrical, radio, television, telephone, or other communicative device or facility to a known closed or open circuit audience of one or more or to the general public.

(8) "Person" means any individual, corporation, cooperative, company, partnership, firm, association, joint venture, business, establishment, organization or other legal entity of any kind.

(9) "Promote" means to manufacture, issue, sell, give, provide, advertise, produce, reproduce, lend, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, present, display, exhibit, or advertise or to offer or agree, or possess with intent, to do the foregoing.

(10) "Prurient" means a lascivious, unhealthy, degrading, shameful, or morbid interest in sexual conduct, sexually explicit nudity, sadomasochistic sexual abuse, or lewd exhibition of the genitals. Materials or performances may

be deemed to appeal to the prurient interest when they have a tendency to excite lascivious thoughts or desires or when they are designed, marketed, promoted, or disseminated to cater or appeal to such an interest. Where the material or performance is designed for and primarily disseminated or promoted to a clearly defined deviant sexual group, rather than the public at large, the prurient-appeal requirement is satisfied if the dominant theme of the material or performance, taken as a whole, appeals to the prurient interest in sex of the members of that intended and probable recipient group.

(11) "Sadomasochistic sexual abuse" means actual or simulated flagellation, rape, torture, or other physical or sexual abuse, by or upon a person who is nude or partially nude, or the condition being fettered, bound or otherwise physically restrained, for the actual or simulated purpose of sexual gratification or abuse or represented in the context of a sexual relationship.

(12) "Sexual conduct" means ultimate sexual acts, normal or perverted, actual or simulated, involving a person or persons, or a person or persons and an animal, including acts of masturbation, sexual intercourse, fellatio, cunnilingus, anilingus, or physical contact with a person's nude or partially nude genitals, pubic area, perineum, anal region, or if the person is female, a breast.

(13) "Sexual device" means any artificial human penis, vagina, or anus, or other device primarily designed, promoted, or marketed to physically stimulate or manipulate the human genitals, pubic area, perineum or anal area, including dildoes, penisators, vibrators, vibrillators, penis rings and erection enlargement or prolonging creams, jellies, or other such chemicals or preparations.

(14) "Sexually explicit nudity" means the sexually oriented and explicit showing, by any means, including but not limited to, close-up views, poses, or depictions in such position or manners as to present or expose such areas to prominent, focal or obvious viewing attention, of any of the following: post-pubertal, fully or partially developed, human female breast with less than a fully opaque covering of any portion thereof below the top of the areola; the depiction of covered human male genitals in a discernible turgid state; or lewd exhibition of the human genitals, pubic area, perineum, buttocks, or anal region with less than a fully opaque covering.

(15) "Visibly displayed" means that the material or performance is visible on a billboard, viewing screen, marquee, newsstand, display rack, window, show case, display case, or other similar display area that is visible from any part of the premises where a minor is or may be allowed, permitted or invited, as part of the general public or otherwise, or that is visible from a public street, sidewalk, park, alley, residence, playground, school, or other place to which a minor, as part of the general public or otherwise, has unrestrained and reasonably anticipated access and presence.

(16) "Wholesale promote" means to promote for purpose of resale. (1988 Code, § 10-1001)

11-1002. Pandering obscenity. (1) No person with knowledge of the character of the material or performance involved, shall do any of the following:

(a) Create, photograph, produce, reproduce, or publish any obscene material when the offender knows that the material is to be commercially or publicly promoted or when reckless in that regard.

(b) Exhibit or advertise for promotion or promote any obscene material.

(c) Create, photograph, tape, direct, produce, or reproduce any obscene performance when the offender knows that it is to be commercially or publicly promoted or when reckless in that regard.

(d) Advertise an obscene performance for presentation, or promote or participate in promoting any obscene performance when such performance is presented publicly or when admission is charged, or when presented or to be presented before an audience of one or more.

(e) Possess or control any obscene material with the purpose to violate this section.

(f) Participate in the acting or posing for any obscene material or performance or portion thereof which is obscene when the offender knows that it is to be commercially or publicly promoted or when reckless in that regard.

(2) It is an affirmative defense to a charge under this section that the material or performance involved was disseminated or promoted for a bona fide medical, psychological, legislative, judicial, or law enforcement purpose, by or to a physician, psychologist, legislator, judge, prosecutor, law enforcement officer or other person having such a bona fide interest in such material or performance.

(3) Every person who is found guilty of violating this section is guilty of pandering obscenity and shall be punished in accordance with the general penalty clause for his code. (1988 Code, § 10-1002)

11-1003. Wholesale pandering of obscenity. (1) No person, with knowledge of the character of the material involved, shall wholesale promote any obscene material or offer or agree, or possess with intent, to wholesale promote any obscene material.

(2) It is an affirmative defense to a charge under this section that the material or performance involved was wholesale promoted for a bona fide medical, psychological, legislative, judicial or law enforcement purpose, by or to a physician, psychologist, legislator, judge, prosecutor, or law enforcement officer.

(3) Every person who is found guilty of violating this section is guilty of pandering obscenity and shall be punished in accordance with the general penalty clause for this code. (1988 Code, § 10-1003)

11-1004. Promoting or wholesale promoting a sexual device.

(1) No person, with knowledge that the device involved is a sexual device, shall do either of the following:

(a) Promote, or offer or agree, or possess with intent to promote, any sexual device.

(b) Wholesale promote, or offer or agree or possess with intent to wholesale promote, any sexual device.

(2) It is an affirmative defense to a charge under this section that the sexual device was promoted or wholesale promoted for a bona fide medical, psychological, legislative, judicial, or law enforcement purpose by or to a physician, psychologist, legislator, judge, prosecutor, or law enforcement officer.

(3) Every person who is found guilty of violating this section is guilty of pandering obscenity and shall be punished in accordance with the general penalty clause for this code. (1988 Code, § 10-1004)

11-1005. Making obscene drawings. (1) No person shall make, draw, color, paint, scratch, cut, or otherwise produce any obscene drawing, writing, graffiti, picture, or other material in public or on a public place, including a public or private building, billboard, utility pole, wall, sidewalk, roadway, or poster.

(2) Every person who is found guilty of violating this section is guilty of pandering obscenity and shall be punished in accordance with the general penalty clause for this code. (1988 Code, § 10-1005)

11-1006. Disseminating matter harmful to minors. (1) No person, with knowledge of its character, shall promote or otherwise furnish or present to a minor any material or performance which is obscene or harmful to minors, or possess or control any such materials with the purpose or intent to violate this section.

(2) The following are affirmative defenses to a charge under this section, involving material or performance which is harmful to minors but not obscene:

(a) The minor exhibited to the defendant or his agent or employee a draft card, driver's license, birth certificate, marriage license, or other governmental or educational document purporting to show that the minor was eighteen (18) years of age or over and the person to whom the document was exhibited did not otherwise have reasonable cause to believe that the minor was under the age of eighteen (18) and did not rely

solely upon the oral allegations or representations of the minor as to his or her age.

(b) At the time the material or performance was promoted or otherwise furnished or presented to the minor involved, a parent or lawful guardian of the minor, with knowledge of its character, accompanied the minor or consented to the material or performance being promoted or otherwise furnished or presented to the minor.

(3) The following are affirmative defenses to a charge under this section, involving material or a performance which is obscene or harmful to minors:

(a) The defendant is the parent, lawful guardian, or spouse of the minor involved.

(b) The material or performance was promoted or otherwise furnished or presented to a minor for a bona fide medical, psychological, judicial, or law enforcement purpose by a physician, psychological, judge, prosecutor, or law enforcement officer.

(4) Every person who is found guilty of violating this section is guilty or pandering obscenity and shall be punished in accordance with the general penalty clause for this code. (1988 Code, § 10-1006)

11-1007. Unlawful exhibition or display of harmful materials to minors. (1) No person, having custody, control, or supervision of any business or commercial establishment or premises, with knowledge of the character of the material involved, shall do any of the following:

(a) Visibly display, exhibit, or otherwise expose to view in that part of the premises where a minor is or may be allowed, permitted, or invited as part of the general public or otherwise, all or any part of any book, magazine, newspaper, or other form of material which is harmful to minors.

(b) Visibly display, exhibit, or otherwise expose to view all or any part of such material which is harmful to minors in any business or commercial establishment where minors, as part of the general public or otherwise, are, or will probably be, exposed to view all or any part of such material from any public or private place.

(c) Hire, employ, or otherwise place, supervise, control, or allow in any business or commercial establishment or other place, any minor under circumstances which would cause, lead, or allow such minor to engage in the business or activity of promoting or otherwise handling such material which is harmful to minors, either to or for adults or minors.

(2) The following are affirmative defenses to a charge under this section:

(a) The minor exhibited to the defendant or his agent or employee a draft card, driver's license, birth certificate, marriage license, or other governmental or educational document purporting to show that the minor was eighteen (18) years of age or over, and the person to whom the document was exhibited did not otherwise have reasonable cause to believe that the minor was under the age of eighteen (18) and did not rely solely upon the oral allegations or representations of the minor as to his or her age or as to the knowing consent of the minor's parent or lawful guardian.

(b) At the time the material was visibly displayed or otherwise furnished or presented to the minor involved, a parent or lawful guardian of the minor, with knowledge of this kind of material, accompanied the minor or consented to the material being visibly displayed or otherwise furnished or presented to the minor.

(c) The defendant is the parent, lawful guardian, or spouse of the minor involved.

(3) Every person who is found guilty of violating this section is guilty of pandering obscenity and shall be punished in accordance with the general penalty clause for this code. (1988 Code, § 10-1007)

11-1008. Unlawful exhibition of harmful performances at outdoor theaters. (1) No person having custody, control, or supervision of any outdoor or drive-in motion picture theater or arena, with knowledge of the character of the performance involved, shall knowingly present or participate in presenting the exhibition of a performance which is harmful to minors upon any outdoor or drive-in motion picture theater or arena screen, when the screen is visible from a public highway or street, sidewalk, park, alley, residence, playground, school, or other such place to which minors as a part of the general public or otherwise, have unrestrained and reasonably anticipated access and presence.

(2) Every person who is found guilty of violating this section is guilty of pandering obscenity and shall be punished in accordance with the general clause for this code. (1988 Code, § 10-1008)

11-1009. Deception to obtain material harmful to minors. (1) No person, for the purpose enabling a minor to obtain any material or gain admission to any performance which is obscene or harmful to minors, shall do either of the following:

(a) Falsely represent that he or she is parent, guardian, or spouse of the minor.

(b) Furnish the minor with any identification or document purporting to show that the minor is eighteen (18) years of age or over.

(2) No minor, for the purpose of obtaining any material or gaining admission to any performance which is harmful to minors, shall do either of the following:

(a) Falsely represent that he or she is eighteen (18) years of age or over.

(b) Exhibit any identification or document purporting to show that he or she is eighteen (18) years of age or over.

(3) Every person who is found guilty of violating this section is guilty of pandering obscenity and shall be punished in accordance with the general penalty clause for this code. (1988 Code, § 10-1009)

11-1010. Compelling acceptance of objectionable materials.

(1) No person, as a condition to the sale or delivery of any material or goods of any kind, shall, over the objection of the purchaser or consignee, require the purchaser or consignee to accept any other material reasonably believed to be obscene or which if furnished or presented to a minor would be harmful to minors.

(2) Every person who is found guilty of violating this section is guilty of pandering obscenity and shall be punished in accordance with the general penalty clause for this code. (1988 Code, § 10-1010)

11-1011. Commercial nudity. (1) In any establishment or premises where alcoholic beverages are dispensed, no person shall knowingly provide service without a fully opaque cloth covering of the human male or female genitals, pubic hair, buttocks, anal region, or post-pubertal female breast below the top of the areola, where the person is exposed to the view of the public, patrons, guests, invitees, or customers.

(2) No person, being the owner, lessor, lessee, or having control, custody, or supervision of any commercial business, establishment, tavern, store, shop, massage parlor, or other place of public accommodation, commerce, or amusement, shall recklessly use or promote the use of, or permit or tolerate others to use or promote the use of, the premises in violation of subsection (1) of this section, or if given or having actual notice of the violation, negligently fail or refuse to stop the violation, or to cause an agent, employee, or other subordinate to stop the violation, or to notify a law enforcement agency of the violation.

(3) "Provide service" means the provisions or allowance of services, advertisement, or entertainment to the public, patrons, guests, invitees, or customers, including hostessing, bartending, food or beverage servicing or preparing, table setting or clearing, waitering or waitressing, singing, dancing, massaging, or counseling, and includes beauty or figure contests, modeling, or exhibitions.

(4) It is an affirmative defense to a charge under this subsection if any fully or partial nudity has serious literary, artistic, political, or scientific value.

(5) Every person found guilty of violating this section is guilty of pandering obscenity and shall be punished in accordance with the general penalty clause for this code. (1988 Code, § 10-1011)

11-1012. Sexual exploitation of children. (1) No person, with knowledge of the character of the material or performance involved, shall employ, consent to, authorize, direct, or otherwise induce or allow a minor to engage or participate in the production, filming, photographing, acting, posing, or other manner of making any material or performance, when the minor will or does engage or participate in sexually explicit nudity, sexual conduct, or sadomasochistic sexual abuse.

(2) No person, with knowledge of the character of the material or performance involved, shall promote or wholesale promote any material of performance which includes, depicts, represents, or contains a minor engaged or participating in the acting or posing or otherwise being the subject of sexually explicit nudity, sexual conduct, or sadomasochistic sexual abuse.

(3) No person, with knowledge of the character of the material or performance involved, shall promote or wholesale promote any obscene material or performance which includes, depicts, represents, or contains a minor engaged or participating in the acting or posing, or otherwise being the subject of sexually explicit nudity, sexual conduct, or sadomasochistic sexual abuse.

(4) It is an affirmative defense to a charge under subsection (1) that the minor exhibited to the defendant, prior to engaging or participating in the material or performance, a draft card, driver's license, birth certificate, or other governmental or educational document purporting to show that the minor was eighteen (18) years of age or over and the defendant did not otherwise have reasonable case to believe or suspect that the minor was under the age of eighteen (18) and did not rely solely upon the oral allegation or representation of the minor as to his or her age.

(5) It is an affirmative defense to a charge under subsections (2) and (3) of this section that the defendant, in good faith, had reasonably factual basis to conclude that the subject of the sexually explicit nudity, sexual conduct, or sadomasochistic sexual abuse was not a minor but was a fact over the age of eighteen (18) years.

(6) In any prosecution or action under this section, the court, as trier fact, shall make the determination of whether the subject of the sexually explicit nudity, sexual conduct, or sadomasochistic sexual abuse is, beyond a reasonable doubt, a minor, and the following methods of proof shall be competent for the admission of direct or circumstantial evidence on this issue:

(a) Personal inspection or testimony of the minor or alleged minor.

(b) Testimony of the parent, lawful guardian, teacher, or other personal acquaintance of the minor or alleged minor.

(c) Inspection of the material or performance involved.

(d) Testimony of a witness to the production, filming, photographing, acting, posing, or other manner of making the material or performance involved or testimony of a physician, scientist, or other expert witness as to the age or appearance of the minor or alleged minor.

(e) Any other method authorized by law or by the rules of evidence.

(7) The subject of the sexual exploitation is presumed to be a minor if he or she is portrayed, advertised, marketed, cast, represented, or otherwise promoted or appears to be a minor.

(8) Every person who is found guilty of violating this section is guilty of pandering obscenity and shall be punished in accordance with the general penalty clause for this code. (1988 Code, § 10-1012)

11-1013. Presumption and evidence of knowledge. (1) An owner or manager, or his agent or employee, or a bookstore, news-stand, theater, distributing firm, warehouse, or other commercial establishment engaged in promoting materials or performances or distributing or handling materials for promotion or wholesale promotion, may be presumed to have knowledge of the character of the material or performance involved if he or she has actual or constructive knowledge of the nature of the material or performance, whether or not he or she has precise knowledge of its contents.

(2) In any prosecution or action in which knowledge of the character of material or a performance or knowledge that a device is a sexual device is at issue, it is evidence of such knowledge that actual notice of the nature of the material was previously provided. Without limitation on the manner in which this notice may be given, actual notice of the character of material or a performance may be given in writing by the state's attorney, district attorney, or assistant district attorney, or similar prosecuting authority of the jurisdiction in which the person to whom the notice is directed does business. The notice, regardless of the manner in which it is given, shall identify the sender, identify the material or performance, state whether it is obscene or harmful to minors and bear the date it was given. The notice shall also give a brief description of the contents of the material or performance and indicate whether the material or performance contains sexually explicit nudity, sexual conduct, sadomasochistic sexual abuse, or lewd exhibition of the genitals or is a sexual device.

(3) In the prosecution or action in which knowledge of the character of material or a performance or knowledge that a device is a sexual device is at issue, evidence of any of the following is relevant proof of such knowledge:

(a) The sexually explicit nature and character of the material or performance involved is advertised, marketed, or otherwise publicly exploited for the purpose of attracting patrons or purchasers.

(b) The bookstore, newsstand, theater, distributor, firm, warehouse, or establishment is advertised, held out, or otherwise represented as possessing sexually explicit materials for promotion or wholesale promotion or as promoting or wholesale promoting a sexually explicit performance.

(c) The bookstore, newsstand, theater, distributor, firm, warehouse, or establishment is primarily engaged in promoting or wholesale promoting sexually explicit materials or sexually explicit performances.

(4) In any prosecution or action under this section knowledge of the character of the material or performance involved may be proved by direct or circumstantial evidence, or both. (1988 Code, § 10-1013)

11-1014. Injunctive actions. (1) When there is reason to believe that any person is violating, is about to violate, or possesses any material with intent to violate any of the provisions of this chapter, the state's attorney, the district attorney general, or any assistant district attorney general may institute and maintain an action for preliminary and permanent injunctive relief, to enjoin the violation in Circuit or Chancery Court. No bond shall be required of the official bringing the action and the official and the political subdivision shall not be liable for costs, or damages, or other court costs, by reason of the injunctive orders not being granted or where judgment is entered in favor of the defendant by the trial or an appellate court.

(2) The court may hold the hearing on the preliminary injunction within two (2) days, not counting Saturdays, Sundays, or legal holidays, after service of the complaint and motion for preliminary injunction upon the defendant. The court shall then issue an order granting or denying the preliminary inspection within twenty-four (24) hours after the conclusion of the hearing regarding the material or performance adjudged obscene or harmful to minors. No right of jury trial shall attach to the hearing on a preliminary injunction but the duty rests on the plaintiff to prove by clear and convincing evidence that the offense is being or is about to be committed. If the defendants who have been served fail to appear at the hearing, then a preliminary injunction shall be issued on the date of the hearing. The finding of the court regarding the obscenity or that the subject matter is harmful to minors at the preliminary injunction stage shall not be binding upon the final order on the

merits at trial on the permanent injunction. The court shall reserve the right to reconsider its preliminary finding based upon any further evidence or testimony which may be introduced at the trial. If the court enters a final order denying a permanent injunction on the basis that the material or performance is not obscene or harmful to minors as a whole, then no contempt shall be found for violation of the preliminary injunction relating thereto.

(3) The court shall set the matter for a hearing on the permanent injunction according to the provisions of the rules or other orders of the court. The defendant shall have the right to demand a hearing on a permanent injunction within ten (10) days of the issue or denial or the preliminary injunction. Either party shall have the right of trial by jury on the issue of the obscenity or harmful nature to minors of the material or performance involved at the hearing for the permanent injunction, and the jury shall render a special and separate verdict as to the nature of the subject matter. The duty rests on the plaintiff to prove by clear and convincing evidence that the offense is being or is about to be committed by the defendants. It shall be the duty of the trier of fact to determine all issues of fact concerning the obscene or harmful to minors nature of the subject matter, including the elements of appeal to prurient interest, community standards, patent offensiveness, and serious value, without the need for expert testimony or other evidence other than the material or performance itself. Expert testimony or other evidence on these issues may be entered by either party and will be entitled to such weight as the trier of fact deems appropriate under the circumstances. The court shall then issue an order granting or denying the permanent injunction within five (5) days after the conclusion of the trial, regarding the material or performance adjudged obscene or harmful to minors.

(4) In the event that the court issues a permanent injunction it shall also issue an order directing a law enforcement officer to seize and hold all copies of the subject matter which are in the possession of the defendants. Such material shall be held until the exhaustion of all appellate remedies and may then be disposed of by order of the court.

(5) Violation of a preliminary or permanent injunction shall be punishable as contempt of court. (1988 Code, § 10-1014)

11-1015. Jury instruction - evidence of pandering. The following instructions may be read to the jury in an action under this chapter:

"In determining the question of whether the allegedly obscene material or performance involved, when taken as a whole, lacks serious literary, artistic, political, or scientific value, the jury may consider the circumstances of promotion, advertisement, or editorial intent and particularly whether such circumstances indicate that the material or performance was being

commercially exploited for the sake of its prurient appeal and whether any serious value claimed was, under the circumstances, a pretense or reality."

"Such evidence is probative with respect to the nature of the material or performance and if the jury concludes that the sole emphasis was on the sexually provocative aspect, this can justify the conclusion that the material or performance is lacking in serious literary, artistic, political, or scientific value."

"The weight, if any, which such evidence is entitled is a matter for the jury to determine." (1988 Code, § 10-1015)

11-1016. Legislative purpose. Nothing in this chapter shall be presumed to invalidate, supersede, repeal, prevent, or preempt any statute of the State of Tennessee covering the subject matter of this section. (1988 Code, § 10-1016)

CHAPTER 11

POLITICAL CAMPAIGN SIGNS

SECTION

11-1101. Definitions. Unless it appears from the context that a different meaning is intended, the following words shall have the meaning given in this section:

(1) "City" means the City of Dayton, a municipal corporation in the State of Tennessee.

(2) "Person" means any person, firm, partnership, association, corporation, company, or organization of any kind.

(3) "Political campaign sign" means any sign urging the election or defeat of any candidate seeking any political office or urging the passage or defeat of any ballot measure, but does not mean or include any billboard owned or maintained by a commercial firm or advertising company.

(4) "Sign" includes any bill, poster, placard, handbill, flyer, painting, sign or other similar object in any form whatsoever which contains printed or written matter in words, symbols or pictures or any combination thereof. (1988 Code, § 10-1101)

11-1102. Posting in certain public places prohibited. It is unlawful for any person to post, place or affix a political campaign sign:

(1) On any building owned, operated, or leased by a public agency.

(2) On or within the confines of any public park, recreational area or other type of landscaped grounds owned or operated by the city or other governmental agency, or upon any flagpole or tree owned by a public agency.

(3) Upon any traffic control sign or device, such as stop lights and their standards, stop signs, yield signs, one-way street signs or any other type of sign or device which directs traffic, or on the supporting post of such sign.

(4) On any utility pole, either owned or leased by a public agency.

(5) Which in any way blocks the view of a traffic control sign or device by motorist or pedestrians in such a manner as to create a hazard.

(6) Which in any way poses a hazard to motorist, pedestrians or cyclist using the public right of ways, such as not being high enough to allow pedestrians, cyclist to pass by unobstructed, or protruding into a street or sidewalk in such a manner as to interfere with the safe passage of the public. (1988 Code, § 10-1102)

11-1103. Posting - time limits. It is unlawful for any person to post a political campaign sign more than ninety (90) days prior to the election for which the sign is posted or to fail to remove a political campaign sign within thirty (30) days after the election for which the sign was posted. (1988 Code, § 10-1103)

11-1104. Removal of legal signs. The city manager or his authorized agents, shall remove any political sign found posted within the corporate limits of the city which is in violation of §§ 11-1102 or 11-1103. (1988 Code, § 10-1104)

11-1105. Authority of city manager. For the purpose of removing political campaign signs, the city manager or his authorized agents are empowered to enter upon the property where the signs are posted, and the city manager is further authorized to enlist the aid or assistance of any other department of the city and to secure legal process to the end that all such signs shall be expeditiously removed from any property where posted. (1988 Code, § 10-1105)

11-1106. Removal procedure. When the city manger or his agents find that a political campaign sign has been posted in violation of §§ 11-1102 or 11-1103, he shall attempt to contact the candidate, committee or person responsible for the posting of such sign. If successful, he shall give twenty-four (24) hours advanced telephonic notice of his intention to remove the sign, indicating the nature of the violation and the location of the sign. If, after such notification the illegal sign remains in violation, the city manager or his agent shall remove said sign and store it in a safe location. If, after reasonable diligence, the city manager is unable to contact the candidate, committee, or person responsible for the sign, he may dispense with the notice requirement and remove the sign storing it in a safe location. (1988 Code, § 10-1106)

11-1107. Storage - notice - return. If the city manager or his agents remove any political campaign sign, he shall keep a record of the location from which the sign was removed. He shall store the political campaign sign in a safe location for at least ninety (90) days, and shall immediately notify by telephone

the candidate, committee or person responsible for the posting of the sign, indicating the fact of removal and the location where it may be retrieved. If the city manager is unable to make telephone contact, he shall provide written notice, if the address of the candidate, committee or person is known or can be reasonably ascertained. The city manager shall return any political sign upon the payment of a fee of five dollars ($5.00) for each sign, to cover the costs of removal, notice and storage. (1988 Code, § 10-1107)

11-1108. Removal of sign charge. The city shall be entitled to receive the sum of five dollars ($5.00) for every political campaign sign removed by the city manager or his agents, to cover the expense of removal, notice and storage. In cases where the unusual effort is needed to remove a sign, such as the cutting or removal of supporting structures, use of aerial devices, towing of "trailer sign," or other unusual situation, the city shall collect from the person responsible a sum sufficient to cover the costs of equipment and hourly wages of employees so utilized. (1988 Code, § 10-1108)

11-1109. Persons responsible. In a campaign for political office the candidate for such office shall be deemed the person responsible for the posting of political campaign signs, unless he first notifies the city recorder and the city manager of another person who is responsible. In such case, the candidate shall provide the name, address, telephone number and signed consent of such other responsible person. In a campaign regarding a ballot measure, the president or chief officer of the committee supporting or opposing such ballot measure shall be deemed responsible unless he first notifies the city recorder and the city manager of some other person responsible, in the manner described above. The candidate or in the case of a ballot measure, the committee president or chief officer or other responsible person if so designated, shall be liable to pay any fee or costs for the removal and storage of the illegal signs as set out herein. Further, such candidate, committee president or chief officer, or other designated person shall be subject to criminal prosecution for violation of §§ 11-1102 and 11-1103. (1988 Code, § 10-1109)

11-1110. Illegal signs - public nuisance. Political campaign signs in violation of §§ 11-1102 or 11-1103 are hereby declared to be public nuisances, and may be abated by the city. The collection of removal fees or other expenses shall not preclude the city from criminally prosecuting any person in violation of said sections. (1988 Code, § 10-1110)

CHAPTER 12

SKATEBOARDING

SECTION
11-1201. Definitions.
11-1202. Prohibition in certain areas.
11-1203. Prohibition on private property.
11-1204. Restrictions in residential areas.

11-1201. Definitions. As used in this chapter, unless the context requires otherwise, the words and terms defined in this section shall have the meaning ascribed to them herein:

(1) "Business district" means the downtown business district designated on the zoning map for the City of Dayton as C-1 and C-2.

(2) "Residential district" means the districts designated on the zoning map for the City of Dayton, Tennessee as R-1, R-2, R-3 and R-4.

(3) "Skateboarding" or "skateboards" means a device with wheels for riding upon, usually standing. (1988 Code, § 10-1201)

11-1202. Prohibition in certain areas. It shall be unlawful for any person to operate or ride a "skateboard" on any street, alley, sidewalk, public parking lot, public recreation area, or at any other location which is zoned C-1 or C-2. (1988 Code, § 10-1202)

11-1203. Prohibition on private property. It shall be unlawful to operate or ride a "skateboard" on private property in the area zoned as C-1 or C-2 where signs have been posted at the entrance or displayed prominently on the property prohibiting the use of "skateboards". (1988 Code, § 10-1203)

11-1204. Restrictions in residential areas. It shall be unlawful to operate or ride a "skateboard" in any residential area zoned R-1, R-2, R-3 or R-4 between the hours of 9:00 P.M. and 7:00 A.M. (1988 Code, § 10-1204)

CHAPTER 13

OFFENSES ON PUBLIC PROPERTY

SECTION
11-1301. Offenses in recreational areas, parks and playgrounds.

11-1301. Offenses in recreational area, parks and playgrounds.

(1) It shall be unlawful for any person to deface or tear down any regulations or notices posted in any recreational areas under the control of the recreation board, whether such regulations or notices are posted by the City of Dayton or by the chairman of the recreation board.

(2) It shall be unlawful for any person to drive or propel any vehicle in or upon any such recreational area at a careless, indifferent or reckless rate of speed, and no vehicle shall be driven in or upon any such recreational area except upon and along a roadway which is marked for such purposes, except for necessary purposes and as authorized by the recreational board.

(3) It shall be unlawful for any person to walk, stand or sit on any border, flower bed, monument, vase, fountain, railing or fence in any park, playground in the city, or to enter or leave a park or playground by climbing over or forcing a way through any fence or gate herein.

(4) It shall be unlawful to sleep upon, lie upon or overturn any seat or swing or other appliance of any park or playground.

(5) It shall be unlawful for any person to remove, destroy, mutilate, or deface any structure, monument, statue, vase, fountain, wall, fence, vehicle, bench, tree, shrub, fern, plant, flower or other property in any park or playground in the city.

(6) It shall be unlawful for any person to place or erect any structure, sign, bulletin board or advertisement, without the permission of the appropriate board, except as set forth herein, and any permission granted shall be only on a temporary basis or for the time of the event or season and at the conclusion of the event or season, said sign, structure, billboard or bulletin board, advertisement shall be removed within five (5) days.

Upon approval of city council permanent advertisement will be allowed.

(7) Further, the appropriate board or city council shall have authority at any time to remove the sign, structure, bulletin board, billboard, or advertisement if the board or sign, structure, advertisement is inappropriate, if no permit was issued for the installation, or if the sign falls into disrepair.

(8) It shall be unlawful for any person to hold any public meeting or gathering or make any public speech in any park in the city except by arrangement with the special events committee.

(9) It shall be unlawful for any person to void, excrement or urine in any park or playground except in facilities especially provided for such purposes, or to use or enter any such facility established exclusively for persons of the opposite sex.

(10) It shall be unlawful in any park or playground in the city for any person to carry firearms, to have any alcoholic beverages, to sell, offer or expose for sale any goods or wares, except under a written permit from the special events committee to post or display any sign, place card, flag or advertising device without such a permit or to solicit any subscription or contribution without such a permit.

(11) It shall be unlawful for any person to damage or vandalize a recreational facility of the City of Dayton and upon said damage or vandalism being discovered, the recreation board shall close the facility for a period of fifteen (15) consecutive days, however, if the person or persons responsible for the damage comes forward and admits liability and pays the damage to the facility, said facility may be opened before the expiration of the fifteen (15) day period.

Any repair after the fifteen (15) day period will be done at the sole discretion of the City of Dayton and the Dayton Recreation Board if no monies have been paid to the city for damages to the facility. (1988 Code, § 10-401)

TITLE 12

BUILDING, UTILITY, AND HOUSING CODES[1]

CHAPTER

CHAPTER 1

BUILDING CODE

SECTION

12-101. Building code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-516, 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,[2] 2012 edition, as prepared and adopted by the

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

[2]Copies of this code (and any amendments) may be purchased from the (continued...)

International Code Council, is hereby adopted and incorporated by reference as a part of this code and is hereafter referred to as the building code. There is hereby excepted and not adopted those provisions and requirements pertaining to sprinkler systems for single family dwellings and duplexes in the International Building Code, 2012 edition. (1988 Code, § 4-101, as amended by Ord. #400, May 2000, Ord. #472, Sept. 2006, Ord. #548, June 2011, and replaced by Ord. #555, Nov. 2011, and Ord. #579, Feb. 2016)

12-102. Modifications. (1) Definitions. Within the building code when reference is made to the duties of a certain official named therein, that designated official of the City of Dayton, Rhea County, Tennessee who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of said code are concerned.

(2) Permit fees. The schedule of permit fees set forth in Appendix "K" of the building code is hereby readopted and reaffirmed as the schedule of fees for obtaining a permit under the code. (1988 Code, § 4-102, as amended by Ord. #400, May 2000)

12-103. Available in recorder's office. Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502 three (3) copies of the building code have been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1988 Code, § 4-403)

12-104. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the building code as herein adopted by reference and modified. (1988 Code, § 4-104)

12-105. Repeal of conflicting provisions. Any matters in said code which are contrary to existing ordinances of the City of Dayton, Rhea County, Tennessee shall prevail and to that extent any existing ordinances to the contrary are hereby repealed in that respect only. (Ord. #400, May 2000)

(...continued)
International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

CHAPTER 2

EXISTING BUILDINGS CODE

SECTION

12-201. Existing buildings code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-516, and for the purpose of regulating the alteration, repair, removal, demolition, use and occupancy of existing buildings and structures, the International Existing Building Code, 2012 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 hereafter referred to as the existing buildings code. (1988 Code, § 4-201, as amended by Ord. #400, May 2000, Ord. #472, Sept. 2006, Ord. #548, June 2011, and replaced by Ord. #555, Nov. 2011, and Ord. #579, Feb. 2016)

12-202. Modifications. Within the existing buildings code, when reference is made to the duties of a certain official named therein, that designated official of the City of Dayton, Rhea County, Tennessee who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of said code are concerned. (Ord. #400, May 2000)

12-203. Available in recorder's office. Pursuant to the requirements of the Tennessee Code Annotated, section 6-54-502 three (3) copies of the building code have been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1988 Code, § 4-202)

12-204. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the existing buildings code as herein adopted by reference and modified. (1988 Code, § 4-203)

12-205. Repeal of conflicting provisions. Any matters in said code which are contrary to existing ordinances of the City of Dayton, Rhea County, Tennessee shall prevail and to that extent any existing ordinances to the contrary are hereby repealed in that respect only. (Ord. #400, May 2000)

CHAPTER 3

UNSAFE BUILDINGS CODE

SECTION

12-301. Unsafe buildings code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506 and for the purpose of securing the public safety, health, and general welfare through structural strength, stability, sanitation, adequate light and ventilation, and safety to life and property from fire and other hazards incident to the construction, alteration, repair, removal, demolition, use and occupancy of buildings, structures or premises, the Standard Unsafe Building Abatement Code,[1] 1985 edition, as prepared and adopted by the Southern Building Code Congress International, Inc., is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the unsafe buildings code. (1988 Code, § 4-301, as amended by Ord. #400, May 2000)

12-302. Modifications. Wherever the unsafe buildings code refers to the duties of a certain official named therein, that designated official of the City of Dayton, Rhea County, Tennessee who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of said code are concerned. (1988 Code, § 4-302, as amended by Ord. #400, May 2000)

12-303. Available in recorder's office. Pursuant to the requirements of § 6-54-502 of the Tennessee Code Annotated, three (3) copies of the unsafe buildings code have been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1988 Code, § 4-303)

12-304. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the unsafe buildings code as herein adopted by reference and modified. (1988 Code, § 4-304)

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

12-305. Repeal of conflicting provisions. Any matters in said code which are contrary to existing ordinances of the City of Dayton, Rhea County, Tennessee shall prevail and to that extent any existing ordinances to the contrary are hereby repealed in that respect only. (Ord. #400, May 2000)

CHAPTER 4

PLUMBING CODE[1]

SECTION

12-401. 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,[2] 2012 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. (1988 Code, § 4-401, as amended by Ord. #400, May 2000, Ord. #472, Sept. 2006, Ord. #548, June 2011, and replaced by Ord. #555, Nov. 2011, and Ord. #579, Feb. 2016)

12-402. Modifications. (1) Definitions. Wherever in the plumbing code when reference is made to the duties of a certain official named therein, that designated official of the City of Dayton, Rhea County, Tennessee, who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of said code are concerned.

(2) Permit fees. The schedule of permit fees as recommended in "Appendix H" of the plumbing code is hereby amended so that the permit fee shall be $1.00 per plumbing fixture. (1988 Code, § 4-402, as amended by Ord. #400, May 2000)

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[1]Municipal code references
Cross connections: title 18.
Street excavations: title 16.
Wastewater treatment: title 18.
Water and sewer system administration: title 18.

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

12-403. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502 three (3) copies of the plumbing code have been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1988 Code, § 4-403)

12-404. Violations. 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. (1988 Code, § 4-404)

12-405. Repeal of conflicting provisions. Any matters in said code which are contrary to existing ordinances of the City of Dayton, Rhea County, Tennessee shall prevail and to that extent any existing ordinances to the contrary are hereby repealed in that respect only. (Ord. #400, May 2000)

CHAPTER 5

ELECTRICAL CODE[1]

SECTION

12-501. Electrical code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-512-501 through 6-512-506 and for the purpose of providing practical minimum standards for the safeguarding of persons and of buildings and their contents from hazards arising form the use of electricity for light, heat, power, radio, signaling, or for other purposes, the National Electrical Code,[2] 1987 edition, as prepared by the National Fire Protection Association, and as modified by chapter 0780-2-1, Electrical Installations, 1987 edition, as prepared by the office of the State Fire Marshal, Department of Commerce and Insurance, State of Tennessee, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the electrical code. (1988 Code, § 4-501)

12-502. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-512-502, three (3) copies of the electrical code have been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1988 Code, § 4-502)

12-503. Permit required for doing electrical work. No electrical work shall be done within this city until a permit therefor has been issued by the city. The term "electrical work" shall not be deemed to include minor repairs that do not involve the installation of new wire, conduits, machinery, apparatus, or other electrical devices generally requiring the services of an electrician. (1988 Code, § 4-503)

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[1]Municipal code reference
Fire prevention, fireworks and explosives: title 7.
Electric service: title 19.

[2]Copies of this code may be purchased from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269-9101.

12-504. Violations. It shall be unlawful for any person to do or authorize any electrical work or to use any electricity in such manner or under such circumstances as not to comply with this chapter and/or the requirements and standards prescribed by the electrical code. (1988 Code, § 4-504)

12-505. Enforcement. The electrical inspector shall be such person as the board of mayor and aldermen shall appoint or designate. It shall be his duty to enforce compliance with this chapter and the electrical code as herein adopted by reference. He is authorized and directed to make such inspections of electrical equipment and wiring, etc., as are necessary to insure compliance with the applicable regulations, and may enter any premises or building at any reasonable time for the purpose of discharging his duties. He is authorized to refuse or discontinue electrical service to any person or place not complying with this chapter and/or the electrical code. (1988 Code, § 4-505)

12-506. Fees. The electrical inspector shall collect the same fees as are authorized in Tennessee Code Annotated, § 67-17-143 for electrical inspections by deputy inspectors of the state fire marshal. (1988 Code, § 4-506)

CHAPTER 6

GAS CODE[1]

SECTION

12-601. Title and definitions. This chapter and the code herein adopted by reference shall be known as the gas code of the city. The following definitions are provided for the purpose of interpretation and administration of the gas code.

(1) "Inspector" means the person appointed as inspector, and shall include each assistant inspector, if any, from time to time acting as such under this chapter by appointment of the board of mayor and aldermen.

(2) "Person" means any individual, partnership, firm, corporation, or any other organized group of individuals.

(3) "Gas company" means any person distributing gas within the corporate limits or authorized and proposing to so engage.

(4) "Certificate of approval" means a document or tag issued and/or attached by the inspector to the inspected material, piping, or appliance installation, filled out, together with date, address of the premises, and signed by the inspector.

(5) "Certain appliances" means conversion burners, floor furnaces, central heating plants, vented wall furnaces, water heaters, and boilers. (1988 Code, § 4-601)

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[1]Municipal code reference
Gas service: title 19.

12-602. Purpose and scope. The purpose of the gas code is to provide minimum standards, provisions, and requirements for safe installation of consumer's gas piping and gas appliances. All gas piping and gas appliances installed, replaced, maintained, or repaired within the corporate limits shall conform to the requirements of this chapter and to the International Fuel Gas Code,[1] 2012 edition, which is hereby incorporated by reference and made a part of this chapter as if fully set forth herein. Three (3) copies of the gas code shall be kept on file in the office of the city recorder for the use and inspection of the public. (1988 Code, § 4-602, as amended by Ord. #400, May 2000, Ord. #472, Sept. 2006, Ord. #548, June 2011, and replaced by Ord. #555, Nov. 2011, and Ord. #579, Feb. 2016)

12-603. Use of existing piping and appliances. Notwithstanding any provision in the gas code to the contrary, consumer's piping installed prior to the adoption of the gas code or piping installed to supply other than natural gas may be converted to natural gas if the inspector finds, upon inspection and proper tests, that such piping will render reasonably satisfactory gas service to the consumer and will not in any way endanger life or property; otherwise, such piping shall be altered or replaced, in whole or in part, to conform with the requirements of the gas code. (1988 Code, § 4-603)

12-604. Bond and license. (1) No person shall engage in or work at the installation, extension, or alteration of consumer's gas piping or certain gas appliances, until the person has secured a license as hereinafter provided, and executed and delivered to the city recorder a good and sufficient bond in the penal sum of $10,000, with corporate surety, conditioned for the faithful performance of all such work, entered upon or contracted for, in strict accordance and compliance with the provisions of the gas code. The bond herein required shall expire on the first day and thereafter on the first day of January of each year a new bond, in form and substance as herein required, shall be given by the person to cover all work to be done during such year.

(2) Upon approval of the bond, the person desiring to do the work shall secure from the city recorder a nontransferable license which shall run until the first day of January next succeeding its issuance, unless sooner revoked. The person obtaining a license shall pay any applicable license fees to the city recorder.

(3) Nothing herein contained shall be construed as prohibiting an individual from installing or repairing his own appliances or installing, extending, replacing, altering, or repairing consumer's piping on his own premises, or as requiring a license or a bond from an individual doing such work

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

on his own premises; but, all such work must be done in conformity with all other provisions of the gas code, including those relating to permits, inspections, and fees. (1988 Code, § 4-604)

12-605. Gas inspector and assistants. To provide for the administration and enforcement of the gas code, the office of gas inspector is hereby created. The inspector, and such assistants as may be necessary in the proper performance of the duties of the office, shall be appointed or designated by the board of mayor and aldermen. (1988 Code, § 4-605)

12-606. Powers and duties of inspector. (1) The inspector is authorized and directed to enforce all of the provisions of the gas code. Upon presentation of proper credentials, he may enter any building or premises at reasonable times for the purpose of making inspections or preventing violations of the gas code.

(2) The inspector is authorized to disconnect any gas piping or fixture or appliance for which a certificate of approval is required but not issued, or which, upon inspection, is found defective or in such condition as to endanger life or property. In all cases where such a disconnected by the inspector, together with the reason or reasons therefore. It shall be unlawful for any person to remove the notice or reconnect the gas piping or fixture or appliance without authorization by the inspector and the gas piping or fixture or appliance shall not be put in service or used until the inspector has attached his certificate of approval in lieu of his prior disconnection notice.

(3) It shall be the duty of the inspector to confer from time to time with representatives of the local health department, the local fire department, and the gas company, and otherwise obtain from proper sources all helpful information and advice, presenting same to the appropriate officials from time to time for their consideration. (1988 Code, § 4-606)

12-607. Permits. (1) No person shall install a gas conversion burner, floor furnace, central heating plant, vented wall furnace, water heater, boiler, consumer's gas piping, or convert existing piping to utilize natural gas without first obtaining a permit to do such work from the city recorder; however, permits will not be required for setting or connecting other gas appliances, or for the repair of leaks in house piping.

(2) When only temporary use of gas is desired, the recorder may issue a permit for such use, for a period of not to exceed sixty (60) days, provided the consumer's gas piping to be used is given a test equal to that required for a final piping inspection.

(3) Except when work in a public street or other public way is involved the gas company shall not be required to obtain permits to set meters, or to extend, relocate, remove, or repair its service lines, mains, or other facilities, or for work having to do with its own gas system. (1988 Code, § 4-607)

12-608. Inspections. (1) A rough piping inspection shall be made after all new piping authorized by the permit has been installed, and before any such piping has been covered or concealed or any fixtures or gas appliances have been attached thereto.

(2) A final piping inspection shall be made after all piping authorized by the permit has been installed and after all portions thereof which are to be concealed by plastering or otherwise have been so concealed, and before any fixtures or gas appliances have been attached thereto. This inspection shall include a pressure test, at which time the piping shall stand an air pressure equal to not less than the pressure of a column of mercury six (6) inches in height, and the piping shall hold this air pressure for a period of at least ten (10) minutes without any perceptible drop. A mercury column gauge shall be used for the test. All tools, apparatus, labor, and assistance necessary for the test shall be furnished by the installer of such piping. (1988 Code, § 4-608)

12-609. Certificates. The inspector shall issue a certificate of approval at the completion of the work for which a permit for consumer piping has been issued if after inspection it is found that such work complies with the provisions of the gas code. A duplicate of each certificate issued covering consumer's gas piping shall be delivered to the gas company and used as its authority to render gas service. (1988 Code, § 4-609)

12-610. Fees. The schedule of permit fees set forth in Appendix "C" of the gas code is amended so that the fees shall be as follows:

(1) The total fees for inspection of consumer's gas piping at one location (including both rough and final piping inspection) shall be $1.05 for one to five outlets, inclusive, and $0.50 for each outlet above five.

(2) The fees for inspecting conversion burners, floor furnaces, boilers, or central heating plants shall be $1.05 for each unit.

(3) The fees for inspecting vented wall furnaces and water heaters shall be $1.00 for each unit.

(4) If the inspector is called back, after correction of defects noted, an additional fee of $1.00 shall be made for each such return inspection.

(5) Any and all fees shall be paid by the person to whom the permit is issued. (1988 Code, § 4-610)

12-611. Violations and penalties. Any person who shall violate or fail to comply with any of the provisions of the gas code shall be guilty of a misdemeanor, and upon conviction thereof shall be fined under the general penalty clause for this code of ordinances, or the licenses of such person may revoke, or both fine and revocation of license may be imposed. (1988 Code, § 4-611)

12-612. **Non-liability**. This chapter shall not be construed as imposing upon the city any liability or responsibility for damages to any person injured by any defect in any gas piping or appliance mentioned herein, or by installation thereof, nor shall the city, or any official or employee thereof, be held as assuming any such liability or responsibility by reason of the inspection authorized hereunder or the certificate of approval issued by the inspector. (1988 Code, § 4-612)

12-613. **Repeal of conflicting provisions**. Any matters in said code which are contrary to existing ordinances of the City of Dayton, Rhea County, Tennessee shall prevail and to that extent any existing ordinances to the contrary are hereby repealed in that respect only. (Ord. #400 May 2000)

CHAPTER 7

MECHANICAL CODE

SECTION

12-701. Mechanical code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating the installations, enlargement, removal, repair, and replacement of air conditioning, heating, ventilation, and refrigeration systems and ducts, the International Mechanical Code,[1] 2012 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 mechanical code. (1988 Code, § 4-701, as amended by Ord. #472, Sept. 2006, Ord. #548, June 2011, and replaced by Ord. #555, Nov. 2011, and Ord. #579, Feb. 2016)

12-702. Modifications. When the mechanical code refers to the duties of a certain official named therein, that designated official of the City of Dayton, Rhea County, Tennessee who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of said code are concerned. (1988 Code, § 4-702, as amended by Ord. #400, May 2000)

12-703. Available in recorder's office. Pursuant to the requirements of § 6-54-502 of the Tennessee Code Annotated, three (3) copies of the mechanical code have been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1988 Code, § 4-703)

12-704. Violations. It shall be unlawful for any person to violate or fail to comply with any provisions of the building code as herein adopted by reference and modified. (1988 Code, § 4-704)

12-705. Repeal of conflicting provisions. Any matters in said code which are contrary to existing ordinances of the City of Dayton, Rhea County,

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

Tennessee shall prevail and to that extent any existing ordinances to the contrary are hereby repealed in that respect only. (Ord. #400 May 2000)

CHAPTER 8

AMUSEMENT DEVICE CODE

SECTION

12-801. Amusement device code adopted. Pursuant to authority granted by §§ 6-54-501 through 6-54-506 of the Tennessee Code Annotated, and for the purpose of regulating the installations, construction, alteration, maintenance, repair, equipment, use, locations, and removal of amusement rides and devices or any appurtenances connected or attached to any amusement ride or device, the Standard Amusement Device Code,[1] 1997 edition, as prepared by the Southern Building Code Congress International, Inc., is hereby adopted and incorporated by reference as part of this code, and is hereinafter referred to as the amusement device code. (1988 Code, § 4-801, as amended by Ord. #400, May 2000)

12-802. Modifications. Within the amusement device code, when reference is made to the duties of a certain official named therein, that designated official of the City of Dayton, Rhea County, Tennessee who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of said code are concerned. (Ord. #400, May 2000)

12-803. Available in recorder's office. Pursuant to the requirement of § 6-54-502 of the Tennessee Code Annotated, three (3) copies of the amusement device code have been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1988 Code, § 4-802)

12-804. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the amusement device code as herein adopted by reference and modified. (1988 Code, § 4-803)

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

12-805. <u>Repeal of conflicting provisions</u>. Any matters in said code which are contrary to existing ordinances of the City of Dayton, Rhea County, Tennessee shall prevail and to that extent any existing ordinances to the contrary are hereby repealed in that respect only. (Ord. #400, May 2000)

CHAPTER 9

SWIMMING POOL CODE

SECTION

12-901. Swimming pool code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, the Standard Swimming Pool Code,[1] 1999 edition, as prepared and adopted by the Southern Building Code Congress, International, Inc., is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the swimming pool code. This code is adopted for the purpose of protecting the public health, safety, and welfare by prescribing and enforcing minimum standards for the design, construction, installation, repair, or alteration of swimming pools, public or private, and equipment related thereto. (1988 Code, § 4-901, as amended by Ord. #400, May 2000)

12-902. Modifications. Within the swimming pool code, when reference is made to the duties of a certain official named therein, that designated official of the City of Dayton, Rhea County, Tennessee who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of said code are concerned. (Ord. #400, May 2000)

12-903. Available in recorder's office. Pursuant to the requirement of Tennessee Code Annotated, § 6-54-502, three (3) copies of the swimming pool code have been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1988 Code, § 4-902)

12-904. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the swimming pool code as herein adopted by reference. (1988 Code, § 4-903)

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

12-905. <u>Repeal of conflicting provisions</u>. Any matters in said code which are contrary to existing ordinances of the City of Dayton, Rhea County, Tennessee shall prevail and to that extent any existing ordinances to the contrary are hereby repealed in that respect only. (Ord. #400, May 2000)

CHAPTER 10

HOUSING CODE

SECTION

12-1001. Housing code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of securing the public safety, health, and general welfare through structural strength, stability, sanitation, adequate light, and ventilation in dwellings, apartment houses, rooming houses, and buildings, structures, or premises used as such, the International Residential Code[1] 2012 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 housing code. There is hereby excepted and not adopted those provisions and requirements pertaining to sprinkler systems for single family dwellings and duplexes in the International Building Code 2012 edition. (1988 Code, § 4-1001, as amended by Ord. #400, May 2000, Ord. #472, Sept. 2006, Ord. #548, June 2011, and replaced by Ord. #555, Nov. 2011, and Ord. #579, Feb. 2016)

12-1002. Modifications. (1) Definitions. Wherever the housing code refers to the duties of a certain official named therein, that designated official of the City of Dayton, Rhea County, Tennessee who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of said code are concerned.

(2) Penalty clause deleted. Section 108 of the housing code is deleted. (1988 Code, § 4-1002, as amended by Ord. #400, May 2000)

12-1003. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, three (3) copies of the housing code have been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1988 Code, § 4-1003)

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

12-1004. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the housing code as herein adopted by reference and modified. (1988 Code, § 4-1004)

12-1005. Repeal of conflicting provisions. Any matters in said code which are contrary to existing ordinances of the City of Dayton, Rhea County, Tennessee shall prevail and to that extent any existing ordinances to the contrary are hereby repealed in that respect only. (Ord. #400, May 2000)

CHAPTER 11

VARIOUS CODES ADOPTED[1]

SECTION

12-1101. Codes adopted by reference[2]. The following codes and all appendixes are hereby adopted by reference as though they were copied herein fully:

International Energy Conservation Code-2012 Edition
International Private Sewage Code-2012 Edition
ICC Performance Code for Buildings and Facilities-2012 Edition
International Wildland-Urban Code-2012 Edition
International Code Council/A117.1-2012 Edition (Standard on Accessible and Usable Buildings and Facilities) (as added by Ord. #472, Sept. 2006, and replaced by Ord. #555, Nov. 2011, and Ord. #579, Feb. 2016)

12-1102. Repeal of conflicting provisions. Any matters in said codes which are contrary to existing ordinances of The City of Dayton, Rhea County, Tennessee shall prevail and that to that extent any existing ordinances to the contrary are hereby repealed in that respect only. (as added by Ord. #472, Sept. 2006)

12-1103. Enforcement. Within said code, when reference is made to the duties of a certain official named therein, that designed official of the City of Dayton, Rhea County, Tennessee who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of said code are concerned. (as added by Ord. #472, Sept. 2006)

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[1] A copy of these codes and any amendments thereto are available in the office of the city recorder.

[2] Copies of these codes are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213-1206.

TITLE 13

PROPERTY MAINTENANCE REGULATIONS[1]

CHAPTER

CHAPTER 1

MISCELLANEOUS

SECTION

13-101. Health officer. The "health officer" shall be the city, county, or state officer the city council appoints or designates to administer and enforce health and sanitation regulations within the city. (1988 Code, § 8-101)

13-102. 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. (1988 Code, § 8-103)

13-103. Stagnant water. It shall be unlawful for any person knowingly to allow any pool of stagnant water to accumulate and stand on his property without treating it so as effectively to prevent the breeding of mosquitoes. (1988 Code, § 8-104)

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[1]Municipal code references
Animal control: title 10.
Littering streets, etc.: § 16-107.

13-104. Weeds. Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds on his property, and it shall be unlawful for any person to fail to comply with an order by the city recorder or chief of police to cut such vegetation when it has reached a height of over one (1) foot.

(5) "Traveled portion of any public street or highway" shall mean the width of the street from curb to curb, or where there are no curbs, the entire width of the paved portion of the street, or where the street is unpaved, the entire width of the street in which vehicles ordinarily use for travel." (1988 Code, § 8-105, as amended by Ord. #518, Feb. 2009)

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. (1988 Code, § 8-106)

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. (1988 Code, § 8-107)

13-107. Overgrown and dirty lots. (1) Prohibition. Pursuant to the authority granted to municipalities under Tennessee Code Annotated, § 6-54-113, it shall be unlawful for any owner of record of real property to create, maintain, or permit to be maintained on such property the growth of trees, vines, grass, underbrush and/or the accumulations of debris, trash, litter, or garbage or any combination of the preceding elements so as to endanger the health, safety, or welfare of other citizens or to encourage the infestation of rats and other harmful animals.

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

(3) 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 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 given by United States mail, addressed to the last known address of the

owner of record. When an attempt at notification by United States mail fails or no valid last known address exists for the owner of record, the department or person designated by the city council may publish the notice in a newspaper of general circulation in the county where the property sits for no less than two (2) consecutive issues or personally deliver the notice to the owner of record. For purposes of this section, such publication shall constitute receipt of notice effective on the date of the second publication of the notice and personal delivery shall constitute receipt of notice immediately upon delivery. The notice shall state that the owner of the property is entitled to a hearing, and shall, at a minimum, contain the following additionl information:

(a) A brief statement that the owner is in violation of § 13-107 of the Municipal Code for the City of Dayton, which has been enacted under the authority of Tennessee Code Annotated, § 6-54-113, and that the property of such owner may be cleaned up at the expense of the owner and a lien placed against the property to secure the cost of the clean-up;

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

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

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

(4) 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 costs thereof shall be assessed against the owner of the property. The city may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The city may bring one (1) action for debt against more than one (1) or all of the owners of properties against whom such costs have been assessed, and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. Upon the filing of the notice with the Office of the Register of Deeds in Rhea 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.

(5) Clean-up of owner-occupied property. When the owner of an owner-occupied residential property fails or refuses to remedy the condition within ten (10) days after receiving the notice, the department or person designated by the city council to enforce the provisions of this section shall immediately cause the condition to be remedied or removed at a cost in accordance with reasonable standards in the community, with these costs to be assessed against the owner of the property. The provisions of subsection (4) shall apply to the collection of costs against the owner of an owner-occupied residential property except that the municipality must wait until cumulative charges for remediation equal or exceed five hundred dollars ($500.00) before filing the notice with the register of deeds and the charges becoming a lien on the property. After this threshold has been met and the lien attaches, charges for costs for which the lien attached are collectible as provided in subsection (4) for these charges.

(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 (4) above may seek judicial review of the order or act. The time period established in subsection (3) 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. (as added by Ord. #517, March 2009, and amended by Ord. #645, and amended by Ord. #645, Aug. 2021 ***Ch8_12-04-23***)

13-108. 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. (as added by Ord. #517, March 2009, and amended by Ord. #645, Aug. 2021 ***Ch8_12-04-23***)

CHAPTER 2

ABANDONED OR JUNK VEHICLES

SECTION

13-201. Definitions. For the purposes of the interpretation and application of this chapter, the following words shall have the following meanings:

(1) "Person" shall mean any natural person, or any firm, partnership, association, corporation or other organization of any kind and description.

(2) "Private property" shall include all property that is not public property, regardless of how the property is zoned or used.

(3) "Vehicle" shall mean any machine propelled by power other than human power, designed to travel along the ground by the use of wheels, treads, self-laying tracks, runners, slides or skids, and to transport persons or property or pull machinery, including but not limited to automobiles, trucks, motorcycles, motor scooters, go-carts, campers, tractors, trailers, tractor-trailers, buggies, wagons, and earthmoving equipment, and any part of the same. For purposes of this chapter of the Dayton Municipal Code, "vehicle" shall also include watercraft.

(4) "Junk vehicle" shall mean a vehicle of any age that is damaged or defective in any one or combination of any of the following ways that either makes the vehicle immediately inoperable, or would prohibit the vehicle from being operated in a reasonably safe manner upon the public streets and highways under its own power if self-propelled, or while being towed or pushed, if not self-propelled:

(a) Flat tires, missing tires, missing wheels, or missing or partially or totally disassembled tires and/or wheels.

(b) Missing or partially or totally disassembled essential part or parts of the vehicle's drive train, including but not limited to, engine, transmission, transaxle, drive shaft, differential, or axle.

(c) Extensive exterior body damage or missing or partially or totally disassembled essential body parts, including but not limited to, fenders, doors, engine hood, bumper or bumpers, windshield or windows.

(d) Missing or partially or totally disassembled essential interior parts, including but not limited to, driver's seat, steering wheel, instrument panel, clutch, brake, or gear shift lever.

(e) Missing or partially or totally disassembled parts essential to the starting or running of the vehicle under its own power, including but not limited to, starter, generator, or alternator, battery, distributor, gas tank, carburetor or fuel injection system, spark plugs, or radiator.

(f) Interior is a container for metal, glass, paper, rags, or other cloth, wood, auto parts, machinery, waste or discarded materials in such quantity, quality and arrangement that a driver cannot be properly seated in the vehicle.

(g) Lying on the ground (upside down, on its side, or at other extreme angle), sitting on blocks, or suspended in the air by any other method in combination with any of the preceding conditions.

(h) General environment in which the vehicle sits, including, but not limited to, vegetation that has grown up around, in or through the vehicle, the collection of pools of water in the vehicle, and the accumulation of other garbage or debris around the vehicle.

(i) When applied to watercraft, being wrecked or otherwise incapable of being safely operated in the water. (Ord. #431, Oct. 2002)

13-202. Abandoned or junk vehicles declared a public nuisance. In enacting this section, the Council for the City of Dayton finds and declares that the accumulation and storage of abandoned, wrecked, junked, partially dismantled or inoperative motor vehicles on public or private property in the City of Dayton are in the nature of rubbish and unsightly debris and constitutes a nuisance detrimental to the health, safety, and welfare of the community in that, such conditions tend to interfere with the enjoyment of and reduce the value of public and private property and create fire hazards and other safety and health hazards to the citizens of the City of Dayton. (Ord. #431, Oct. 2002)

13-203. Removal required. The accumulation and storage of one or more such motor vehicles in violation of the provisions of this chapter shall constitute rubbish and unsightly debris and a nuisance detrimental to the health, safety, and general welfare of the inhabitants of the City of Dayton, and it shall be the duty of the registered owner of such motor vehicle and it shall also be the duty of the person in charge or control of the property upon which such motor vehicle is located whether owner, tenant, occupant, lessee, lessor, or otherwise, to remove the same to a place of lawful storage or to have the vehicle housed within a building where it will not be visible from the street. (Ord. #431, Oct. 2002)

13-204. Enforcement. Pursuant to Tennessee Code Annotated, § 7-63-101, the building inspector is authorized to issue ordinance summons for

violations of this ordinance on private property. The building inspector shall upon the complaint of any citizen, or acting on his own information, investigate complaints of junked or abandoned vehicles on private property. If after such investigation the building inspector finds a junked or abandoned vehicle on private property, he shall issue an ordinance summons. The ordinance summons shall be served upon the owner or owners of the property, or upon the person or persons apparently in lawful possession of the property, and shall give notice to the same to appear and answer the charges against him or them. If the offender refuses to sign the agreement to appear, the building inspector may:

(1) Request the city judge to issue a summons; or

(2) Request a police officer to witness the violation. The police officer who witnesses the violation may issue the offender a citation in lieu of arrest as authorized by Tennessee Code Annotated, § 7-63-101, et seq., or if the offender refuses to sign the citation, may arrest the offender for failure to sign the citation in lieu of arrest.

In addition, pursuant to Tennessee Code Annotated, § 55-5-122, the municipal court may issue an order to remove vehicles from private property. (Ord. #431, Oct. 2002, as replaced by Ord. #518, Jan. 2009)

13-205. Exceptions. 1. It shall be permissible for a person to park, store, keep and maintain a junk or abandoned vehicle on private property under the following conditions:

a. The junk or abandoned vehicle is completely enclosed within a building or suitably covered or screened from view where neither the vehicle nor any part of it is visible from the street or from any other abutting property. However, this exception shall not exempt the owner or person in possession of the property from any zoning, building, housing, property maintenance, and other regulation or ordinances governing the building or property on which or in which such vehicle is enclosed.

b. The junk vehicle is parked or stored on property lawfully zoned for business engaged in wrecking, junking, or repairing vehicles. However, this exception shall not exempt the owner or operator of any such business from other zoning, building, property maintenance and other regulations or ordinances governing businesses engaged in wrecking, junking, or repairing vehicles.

2. No person shall park, store, keep or maintain on private property a junk or an abandoned vehicle for any period of time if it poses an immediate threat to the health and safety of the citizens of the City of Dayton. (Ord. #431, Oct. 2002)

13-206. Violations a civil offense. It shall be unlawful and a civil offense for any person:

(1) To park and or in any other manner place and leave unattended on the traveled portion of any public street or highway a junk or abandoned vehicle for any period of time, even if the owner or operator of the vehicle did not intend to permanently desert or forsake the vehicle.

(2) To park or in any other manner place and leave unattended on the untraveled portion of any street or highway, or upon any other public property, a junk or abandoned vehicle for more than forty-eight (48) continuous hours, even if the owner or operator of the vehicle did not intend to permanently desert or forsake the vehicle.

(3) To park, store, keep, or maintain on private property a junk or abandoned vehicle. (as added by Ord. #518, Jan. 2009)

13-207. Penalty for violations. Any person violating this chapter shall be subject to a civil penalty of fifty ($50.00) dollars plus court costs for each separate violation of this chapter. Each day the violation of this chapter continues shall be considered a separate violation. (as added by Ord. #518, Jan. 2009)

CHAPTER 3

INTERNATIONAL PROPERTY MAINTENANCE CODE[1]

SECTION

13-301. Adopted. The International Property Maintenance Code[2], 2018 edition, and all appendices are hereby adopted by reference as though copied herein fully. (as added by Ord. #472, Sept. 2006, amended by Ord. #548, June 2011, and replaced by Ord. #555, Nov. 2011, Ord. #579, Feb. 2016, and Ord. #637, Jan. 2021 ***Ch7_01-04-21***)

13-302. Repeal of conflicting provisions. Any matters in said codes which are contrary to existing ordinances of The City of Dayton, Rhea County, Tennessee shall prevail and that to that extent any existing ordinances to the contrary are hereby repealed in that respect only. (as added by Ord. #472, Sept. 2006)

13-303. Enforcement. Within said code, when reference in made to the duties of a certain official named therein, that designed official of the City of Dayton, Rhea County, Tennessee who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of said code are concerned. (as added by Ord. #472, Sept. 2006)

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[1]A copy of this code and any amendments thereto is available in the office of the city recorder.

[2]Copies of this code (and any amendments) are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

CHAPTER 4

SLUM CLEARANCE

SECTION

13-401. Findings of board. Pursuant to Tennessee Code Annotated, § 13-21-101 et seq., the board of commissioners 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. (as added by Ord. #646, Aug. 2021 ***Ch8_12-04-23***)

13-402. Definitions. (1) "Dwelling" means any building or structure, or part thereof, used and occupied for human occupation or use or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.

(2) "Governing body" shall mean the board of commissioners charged with governing the City of Dayton, Tennessee.

(3) "Municipality" shall mean the City of Dayton, 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.

(5) "Parties in interest" shall mean all individuals, associations, corporations and others who have interests of record in a structure 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. (as added by Ord. #646, Aug. 2021 ***Ch8_12-04-23***)

13-403. "Public officer" designated; powers. There is hereby designated and appointed a "public officer," to be the codes enforcement officer of the city, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the codes enforcement officer. (as added by Ord. #646, Aug. 2021 ***Ch8_12-04-23***)

13-404. 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 by controlling in hearings before the public officer. (as added by Ord. #646, Aug. 2021 ***Ch8_12-04-23***)

13-405. Orders to owners of unfit structures. If, after such notice and hearing as provided for in the preceding section, the public officer determines that the structure under consideration is unfit for human occupation or use, he/she shall state in writing his/her findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order:

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

(2) If the repair, alteration or improvement of said structure cannot be made at a reasonable cost in relation to the value of the structure (not to exceed fifty percent (50%) of the value of the premises), requiring the owner within the time specified in the order, to remove or demolish such structure. (as added by Ord. #646, Aug. 2021 ***Ch8_12-04-23***)

13-406. 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 structure 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." (as added by Ord. #646, Aug. 2021 ***Ch8_12-04-23***)

13-407. 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. (as added by Ord. #646, Aug. 2021 ***Ch8_12-04-23***)

13-408. 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, as well as reasonable fees for registration, inspections and professional evaluations of the property, shall be assessed against the owner of the property, and shall, upon the certification of the sum owed being presented to the municipal tax collector, 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 propetty 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 as set forth in Tennessee Code Annotated, §§ 67-5-2010 and 67-5-2410. In

addition, the municipality may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The municipality may bring one (1) action for debt against more than one (1) or all of the owners of properties against whom said costs have been assessed, and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. If the structure is removed or demolished by the public officer, the public officer 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 Rhea 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 Dayton to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. (as added by Ord. #646, Aug. 2021 ***Ch8_12-04-23***)

13-409. 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 or use if he/she 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 Dayton. Such conditions may include the following (without limiting the generality of the foregoing): defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light or sanitary facilities; dilapidation; disrepair; structural defects; or uncleanliness. (as added by Ord. #646, Aug. 2021 ***Ch8_12-04-23***)

13-410. 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, or in the absence of such newspaper, in one (1) printed and published in the county and circulating in the city in which the structures are located. In addition, a copy of such complaint or order shall be posted in a conspicuous place on premises affected by the complaint or order. A copy of such complaint or order shall also be filed for record in the Register's Office of Rhea County, Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law. (as added by Ord. #646, Aug. 2021 ***Ch8_12-04-23***)

13-411. 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. (as added by Ord. #646, Aug. 2021 ***Ch8_12-04-23***)

13-412. 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/she deems necessary to carry out the purposes of this chapter; and

(6) To delegate any of his functions and powers under this chapter to such officers and agents as he/she may designate. (as added by Ord. #646, Aug. 2021 ***Ch8_12-04-23***)

13-413. 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. (as added by Ord. #646, Aug. 2021 ***Ch8_12-04-23***)

13-414. 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 provisions of this code. Each day a violation is allowed to continue shall constitute a separate offense. (as added by Ord. #646, Aug. 2021 ***Ch8_12-04-23***)

TITLE 14

ZONING AND LAND USE CONTROL

CHAPTER

CHAPTER 1

MUNICIPAL PLANNING COMMISSION

SECTION

14-101. Creation and membership. Pursuant to the provisions of Tennessee Code Annotated, § 13-4-101 there is hereby created a municipal planning commission, hereinafter referred to as the planning commission. The planning commission shall consist of seven (7) members; two (2) of these shall be the mayor or a person designated by the mayor and another member of the board of mayor and aldermen selected by the board of mayor and aldermen; the other five (5) members shall be appointed by the mayor. All members of the planning commission shall serve as such without compensation. Except for the initial appointments, the terms of the five (5) members appointed by the mayor shall be for five (5) years each. The five (5) members first appointed shall be appointed for terms of one (1), two (2), three (3), four (4), and five (5) years respectively so that the term of one (1) member expires each year. The terms of the mayor and the council 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. (1988 Code, § 11-101, modified)

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. (1988 Code, § 11-102)

14-103. <u>Additional powers</u>. Having been designated as a regional planning commission, the municipal planning commission shall have the additional powers granted by, and shall otherwise be governed by the provisions of the state law relating to regional planning commissions. (1988 Code, § 11-103)

CHAPTER 2

ZONING ORDINANCE

SECTION

14-201. Land use to be governed by zoning ordinance. Land use within the City of Dayton shall be governed by Ordinance #291, titled "Zoning Ordinance, Dayton, Tennessee," and any amendments thereto.[1]

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[1]Ordinance #291, and any amendments thereto, are published as separate documents and are of record in the office of the city recorder.

See Ord. #356, June 1996, of record in the office of the recorder, for an amendment to the Dayton Zoning Ordinance regulating the flood plain areas of the city.

CHAPTER 3

MOBIL HOME PARK AND TRAVEL TRAILER PARK ORDINANCE[1]

SECTION

14-301. Introduction. (1) Authority. This chapter is pursuant to the authority granted in the Tennessee Code Annotated, § 13-7-201 through § 13-7-211. This authority grants the City of Dayton, Tennessee to regulate the location, height and size of buildings and other structures; the percentage of lot which may be occupied; the size of yards, courts and open spaces; the density and distribution of population; the uses of buildings and structures for trade, industry, residence, recreation, agriculture, forestry, soil conservation, water supply conservation, or other purposes.

(2) Title. This chapter shall be known as the Mobile Home Park and Travel Trailer Park Ordinance of the City of Dayton, Tennessee.

(3) Purpose. This chapter is adopted in accordance with a comprehensive plan for the purpose of promoting the public health, safety, morals, convenience, order, prosperity and general welfare of the City of Dayton, Tennessee.

(4) Enactment. Except as hereinafter provided in this chapter, no land within the City of Dayton, Tennessee shall be utilized for a Mobile Home Park or Travel Trailer Park. (1988 Code, § 8-501)

14-302. Definitions used in this chapter. (1) Explanation of definitions used herein. Except as specifically defined herein, all words used in this chapter have their customary dictionary definitions where not inconsistent with the context. The term "shall" is mandatory. Where not inconsistent with the context, words used in the singular number include the plural and those used in the plural number include the singular. Words used in the present tense include the future.

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[1]Municipal code references
Building code, etc.: title 12.
Water and sewers: title 18.

(2) Definitions. For the purposes of the chapter certain words or terms are defined as follows:

(a) "Buffer strip" (planted evergreen). A strip of land not less than ten (10) feet in width planted in grass, ground covers, shrubs and/or trees.

(b) "Health officer." The director of a city, county or district health department having jurisdiction over the community health in a specific area, or his duly authorized representative.

(c) "Mobile home or manufactured home." A detached single-family dwelling unit with any or all of the following characteristics:

(i) Designed for 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.

(ii) Designed to be transported after fabrication on its own wheels, or on a flatbed or other trailers or detachable wheels.

(iii) 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, location on foundation, supports, connection to utilities and the like.

(iv) For the purposes of this chapter the terms 'mobile home' and 'manufactured home' are synonymous.

(d) "Mobile home park." Any plot of ground within the City of Dayton on which two (2) or more mobile homes, occupied for dwelling or sleeping purposes are located.

(e) "Mobile home space." A plot of ground within a mobile home park designated for the accommodation of one (1) mobile home.

(f) "Mobile home subdivision." A subdivision of land specifically created to accommodate mobile homes on individual lots that are sold in fee simple. Such subdivisions shall meet all of the requirements of the Dayton Subdivision Regulations.

(g) "Permit (license)." A permit is required for mobile home parks and travel trailer courts. Fees charged under the permit requirement are for inspection and the administration of this chapter.

(h) "Set-up." The support system that is a combination of footings, piers, caps and shims that will, when properly installed, support the mobile home.

(i) "Skirting." An enclosure permanently constructed from weather resistant materials, similar in nature and design to the mobile home, which encloses the space directly beneath the mobile home.

(j) "Travel trailer." A travel trailer, pick-up camper, converted bus, tent-trailer, tent, or similar device, including recreational vehicles, used for temporary portable housing or a unit which:

(i) Can operate independent of connections to external sewer, water and electrical systems;

(ii) Contains water storage facilities and may contain a lavatory, kitchen sink and or bath facilities; and or

(iii) Is identified by the manufacturer as a travel trailer.

(k) "Travel trailer park." Any plot of around within the City of Dayton on which two (2) or more travel trailers, occupied for camping or periods of short stay, are located. (1988 Code,§ 8-502)

14-303. General requirements. (1) Mobile home parks. It shall be unlawful for any person or persons to maintain or operate any mobile home park within the City of Dayton, Tennessee, unless such person or persons shall have first obtained a mobile home park permit.

(2) Travel trailer parks. It shall be unlawful for any person or persons to maintain or operate any travel trailer park within the City of Dayton, Tennessee, unless such person or persons shall have first obtained a travel trailer permit.

(3) Pre-application review. Whenever a mobile home or travel trailer park is proposed on land within the city limits of Dayton, the developer is urged to consult early and informally with the planning commission staff. The developer may submit sketch plans and data showing existing conditions within the site and in its vicinity and the proposed layout and development of the park. No fee shall be charged for this pre-application review and no formal application shall be required.

(4) Application for mobile home and travel trailer park permits and planning commission approval. Following the optional pre-application review of a proposed mobile home or travel trailer park, the developer or his agent, shall apply for a mobile home or travel trailer park permit from the city building inspector. No mobile home or travel trailer park shall be established or maintained by any person unless such person holds a valid permit.

Applications shall be in writing, signed by the applicant and accompanied by the owner's certification and any other certification deemed necessary, as well as by a site plan of the proposed mobile home or travel trailer park.

The developer shall notify the Dayton Municipal Planning Commission at least fifteen (15) calendar days prior to the next regular meeting of the planning commission of what it is he wishes to have on the AGENDA. At this time, the developer shall also submit copies of the site plan and any supporting documents, if any.

(5) Permit applications for mobile home and travel trailer parks. Applications for a mobile home or travel trailer park shall be filed with and issued by the city building inspector subject to the planning commission's approval of the site plan. Applications shall be in writing and signed by the applicant and shall be accompanied by a plan of the proposed mobile home or travel trailer 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 or travel trailer park;

(f) Exact boundary lines of the tract by bearing and distance;

(g) Names of owners of 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 or travel trailer spaces;

(j) Provisions for water supply, sewerage and drainage;

(k) Such information as may be required 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. (1988 Code, § 8-503)

14-304. Mobile home park requirements. (1) Initial development permit for mobile home parks. No place or site within the City of Dayton shall be established or maintained by any person, group of persons, or corporation as a mobile home park unless a valid permit has been issued by the city building inspector in the name 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.

(2) 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 this chapter.

(3) Length of occupancy. Mobile home parks are not intended to accommodate transient dwellings and therefore no mobile home space shall be rented in any mobile home park for periods of less than sixty (60) days.

(4) Certification of minimum standards of mobile homes. No mobile home shall be admitted to any park unless it meets the requirements of the National Manufactured Home Construction and Safety Standards Act of 1974 (42 USC § 5401 et seq.) and the "Uniform Standards Code for Manufactured Homes and Recreational Vehicles" (Tennessee Code Annotated, §§ 68-126-201 through § 68-126-215) or any state administered code ensuring equal or better plumbing, heating or electrical installations.

(5) Location and planning. The mobile home park shall be located on a well-drained site and shall be located so that its drainage will not endanger any water supply and shall be in conformity with a plan approved by the Dayton Municipal Planning Commission. The mobile home park location and plan approval 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.

(6) 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 plot so dimensioned and related as to facilitate efficient design and management.

(7) Minimum mobile home space and spacing of mobile homes. Each mobile home space shall be four thousand (4,000) square feet in area. Mobile homes shall be parked on each space so that there will contain the following separation between mobile homes or any attachment such as a garage or porch:

(a) Side yard . . . . . 10 feet from the mobile home space line[1]
(b) Rear yard . . . . . 10 feet from the mobile home space line[1]
(c) Front yard . . . . . 10 feet from the mobile home space line[1]
(d) From any lot line . . 20 feet from the park's property line[1]
(e) From any public street right-of-way . . . . . 25 feet
(f) From any private street within the park . . . . . 10 feet

(8) Water supply. A public water supply shall be used exclusively in mobile home parks.

(9) Sewage disposal. Public sewerage shall be used exclusively in mobile home parks.

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[1]A mobile home "space" is not a lot. It is not recorded as such and cannot be sold individually. The only lot contained in the mobile home park is the outer boundary lines of the park which legally defined (and defines) the lot (or parcel) prior to, and after its development as a mobile home park.

(10) 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.

Where steel containerized dumpsters are used, a concrete pad shall be provided and an opaque fence shall be installed. Where dumpsters are utilized, they shall be provided at a rate of one (1) dumpster for each eight (8) mobile homes, or any increment thereof.

(11) 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 National Electrical Code and Tennessee Department of Insurance and Banking Regulation No. 15, entitled "Regulation Relating to Electrical Installations in the State of Tennessee," and shall satisfy all requirements of the local electric service organization.

(12) Street requirements. Widths of various streets within mobile home parks shall be:

One-way, with no on-street parking	10 ft.
One-way, with parallel parking on one side only	18 ft.
One-way, with parallel parking on both sides	26 ft.
Two-way, with no on-street parking	20 ft.
Two-way, with parallel parking on one side only	28 ft.
Two-way, with parallel parking on both sides	36 ft.

Streets shall have a compacted gravel base and a prime seal treatment to meet requirements of the Tennessee State Highway Department.

(13) 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 two (2) car spaces for each mobile home lot plus an additional car space for each four (4) lots to provide for guest parking, for two-car tenants and for delivery and service vehicles. Car parking spaces shall be located upon each mobile home space. 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) Buffer strip. An evergreen buffer strip shall be planted along those boundaries of the mobile home park that are adjacent to other property, except along city streets.

(15) Skirting. The owner or operator of a mobile home park shall require individual mobile homes within the park to be skirted.

(16) Recreation area. A centrally located recreation area for the use of all mobile home park residents may be required in all mobile home parks. The planning commission shall determine whether a centrally located recreation area is needed and the size of the required recreation area. The planning commission may allow the mobile home park owner to provide larger mobile home park spaces, in lieu of a centrally located recreation area.

Such recreational land, when provided separately by the mobile home park, shall be maintained in an attractive manner and shall be well drained and usable for recreation.

(17) Utilities to each space. Mobile home parks shall provide utility connections for each individual mobile home space. (1988 Code, § 8-504)

14-305. Travel trailer park requirements. (1) Unlawful use of a travel trailer. It shall be unlawful for any travel trailer to be occupied or serviced outside any properly permitted designated travel trailer park. This provision shall not apply to the storage of travel trailers that are neither temporarily nor permanently occupied as a dwelling unit while within the city limits.

(2) Permit for travel trailer park. No place or site within the City of Dayton shall be established or maintained by any person, group of persons, or corporation as a travel trailer park unless a valid permit has been issued by the city building inspector in the name of such person or persons for the specific travel trailer park. The city building inspector is authorized to issue, suspend, or revoke permits in accordance with the provisions of this chapter.

(3) Inspections by city building inspector or county health officer. The city building inspector or county health officer is hereby authorized and directed to make, inspections to determine the condition of travel trailer parks, in order that he may perform his duty of safeguarding the health and safety of the occupants of travel trailer parks and the general public. The city building inspector or county health officer 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.

(4) Length of occupancy. Travel trailer spaces shall be rented by the day or week only, and the occupant of such space shall remain in the same travel trailer park not more than thirty (30) days.

(5) Location. Travel trailer parks should be located in commercial areas or recreational areas.

NOTE: Travel trailer parks properly regulated, fit well into general commercial complexes in which a variety of complimentary facilities are available nearby --

groceries, general stores, filling stations, coin operated laundries, for example, are often in demand by persons looking for trailer parks.

(6) Minimum size of travel trailer park. The tract of land designed to be used as a travel trailer park shall conform to those same minimum lot area standards as established by the Dayton Subdivision Regulations.

(7) Minimum size of travel trailer space. Each travel trailer space shall have a minimum width of thirty (30) feet and a minimum length of fifty (50) feet. Each space, upon which the travel trailer will be located, shall be situated such that there is at least fifteen (15) feet from side-to-side and at least eight (8) feet end-to-end from the edge of one travel trailer to the edge of the next.

(8) Street requirements. A loop or other system of internal private roads shall be built so that all travel trailer spaces take their access from such internal roads rather than directly from a public road. The use of pull-through spaces shall be allowed if the owner wants this arrangement.

The minimum widths of various streets or roads within a travel trailer park shall comply with the following:

One-way street (with no on-street parking) . . . . . 10 feet wide;
Two-way street (with no on-street parking) . . . . . 16 feet wide;
Parallel parking (on one side) . . . . . 8 ft. of addnl width;
Parallel parking (on two sides) . . . . . 16 ft. of addnl width.

(9) Sewage disposal. Each travel trailer park shall provide an adequate sewage disposal system approved in writing by the health officer. Each travel trailer space designed to accommodate travel trailers requiring external connections to the sewage disposal system shall have such connections approved by the health officer. A collection and disposal system for liquid waste shall also be provided within the park for those travel trailers having self-contained waste systems. The liquid disposal and collection system shall meet all health department requirements.

The developer of a travel trailer park shall first attempt to dispose of sewage through a public sewerage system. If this attempt is not feasible, then a septic tank and subsurface soil absorption system may be used provided the soil characteristics are suitable and an adequate disposal area is available.

No travel trailer shall be placed over a soil absorption field.

An officially approved treatment plant may be used instead of a public sewerage or septic tank system. (1988 Code, § 8-505)

14-306. Administration and enforcement. (1) Highest standards apply. In any case where a provision of this chapter is found to be in conflict with a provision of any private or public act or local ordinance or code, the

provision that establishes the higher standard for promotion and protection of the health and safety of the people shall prevail.

(2) Enforcement. It shall be the duty of the county health officer and city building inspector to enforce the provisions of this chapter.

(3) Dayton board of zoning appeals to hear appeals. The applicability of this chapter or the validity or applicability of a regulation promulgated pursuant to this chapter, may be determined in a hearing before the Dayton Board of Zoning Appeals. The board of zoning appeals shall grant a hearing to aggrieved persons upon request. The complainant shall file a written petition. The board of zoning appeals shall hold a hearing on the appeal within sixty (60) days of receipt of petition. The complainant and all other interested parties shall be given notice of the time and place of the hearing.

The complainant may appeal such decision of the board of zoning appeals to the Dayton Board of Mayor and City Council. Such an appeal shall be in writing. After an appeal to the Dayton Board of Mayor and City Council, the complainant may seek judicial review.

(4) Variance process. Variance from the requirements of these regulations shall only be based upon hardship created through lot conditions necessitating such and the intent of these regulations shall not be changed. Such variances and the reason as to why granted shall be noted in the minutes of the board of zoning appeals.

(5) Improper utility connection. If a utility company or similar public facility corporation connects with the system of a structure or initiates service in violation of this chapter or the regulations promulgated hereunder, the planning commission through the city attorney shall direct such company or corporation to close the connection and discontinue service at the company's or corporation's expense.

(6) Violations. Violations of this chapter or the regulations promulgated hereunder shall be punishable by a fine of not less than twenty-five (25) nor more than fifty (50) dollars for each offense. Each day a violation is continued shall constitute a separate offense. Prior to the levy of a fine, written notice shall be given to the offender specifying in what manner he has violated this chapter. This notice shall specify the manner and ordinances necessary to correct conditions in violation.

(7) Existing mobile home parks (grandfather clause). Any mobile home park or travel trailer park permitted pursuant to the provisions of this chapter, may be continued even though such use does not entirely conform with the provisions of this chapter provided they do not violate public health regulations and provided, however, that this chapter will govern:

(a) Mobile home parks or travel trailer parks re-established after a discontinuance for more than thirty (30) days;

(b) The extension or enlargement of any mobile home park or travel trailer park in existence prior to the adoption of this chapter; and

(c) Mobile home parks or travel trailer parks rebuilt, altered, or repaired after the effective date of this chapter due to damage or destruction of more than one-half (½) of the park's total capacity.

(8) Amendments. Any member of the board of mayor and city council may introduce such amendment, or any official, board or any other person may present a petition to the board of mayor and city council requesting an amendment or amendments to this chapter. All changes and amendments shall be effective only after a fifteen day (15) official notice and public hearing. No such amendment shall become effective unless it is first submitted to the planning commission for approval. If such amendment is disapproved by the planning commission, it shall receive the favorable vote of a majority of the entire membership of the Dayton Board of Mayor and City Council, in order to override the planning commission recommendation and attain final passage.

(9) Severability. If any provision of this chapter or its application to any person or circumstances is held invalid, this shall not affect other provisions or applications of the chapter that are independent of the invalid provision or application, and to that end the various provisions of this chapter are severable.

(10) Approval by board of mayor and city council. This chapter shall have no effect unless it is approved by a majority vote of the Dayton Board of Mayor and City Council. Its approval or non-approval shall be proclaimed by the presiding officer of the Dayton Board of Mayor and City Council. (1988 Code, § 8-506)

CHAPTER 4

[DELETED]

(This chapter "International Zoning Code" as added by Ord. #472, Sept 2006, was repealed by Ord. #555, Nov. 2011)

TITLE 15

MOTOR VEHICLES, TRAFFIC AND PARKING[1]

CHAPTER

CHAPTER 1

MISCELLANEOUS[2]

SECTION

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[1]Municipal code reference
Excavations and obstructions in streets, etc.: title 16.

[2]State law references
Under Tennessee Code Annotated, § 55-10-307, the following offenses are exclusively state offenses and must be tried in a state court or a court having state jurisdiction: driving while intoxicated or drugged, as prohibited by Tennessee Code Annotated, § 55-10-401; failing to stop after a traffic accident, as prohibited by Tennessee Code Annotated, § 55-10-101, et seq.; driving while license is suspended or revoked, as prohibited by Tennessee Code Annotated, § 55-50-504; and drag racing, as prohibited by Tennessee Code Annotated, § 55-10-501.

15-101. Motor vehicle requirements. It shall be unlawful for any person to operate any motor vehicle within the corporate limits unless such vehicle is equipped with properly operating muffler, lights, brakes, horn, and such other equipment as is prescribed and required by Tennessee Code Annotated, title 55, chapter 9. (1988 Code, § 9-101)

15-102. Driving on streets closed for repairs, etc. Except for necessary access to property abutting thereon, no motor vehicle shall be driven upon any street that is barricaded or closed for repairs or other lawful purpose. (1988 Code, § 9-106)

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. (1988 Code, § 9-107)

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. (1988 Code, § 9-109)

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. (1988 Code, § 9-110)

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. (1988 Code, § 9-111)

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. (1988 Code, § 9-112)

15-108. Miscellaneous traffic-control signs, etc.[1] It shall be unlawful for any pedestrian or the operator of any vehicle to violate or fail to comply with any traffic-control sign, signal, marking, or device placed or erected by the state or the city. (1988 Code, § 9-113)

15-109. General requirements for traffic-control signs, etc. All traffic control signs, signals, markings, and devices shall conform to the latest revision of the Manual on Uniform Traffic Control Devices for Streets and Highways, published by the U.S. Department of Transportation, Federal Highway Administration and shall, so far as practicable, be uniform as to type and location throughout the city. This section is merely directory and mandatory. (1988 Code, § 114)

15-110. Unauthorized traffic-control signs, etc. No person shall place, maintain, or display upon or in view of any street, any unauthorized sign,

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[1]Municipal code references

Stop signs, yield signs, flashing signals, pedestrian control signs, traffic control signals generally: §§ 15-505--15-509.

signal, marking, or device which purports to be or is an imitation of or resembles an official traffic-control sign, signal, marking, or device or railroad sign or signal, or which attempts to control the movement of traffic or parking of vehicles, or which hides from view or interferes with the effectiveness of any official traffic-control sign, signal, marking, or device or any railroad sign or signal. (1988 Code, § 9-115)

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 city authority. All presently installed traffic-control signs, signals, workings and devices are hereby expressly authorized, ratified, approved and made official. (1988 Code, § 9-116)

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. (1988 Code, § 9-117)

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. (1988 Code, § 9-118)

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. (1988 Code, § 9-120)

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. (1988 Code, § 9-121)

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. (1988 Code, § 9-122)

15-117. Projections from the rear of vehicles. Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof, the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve (12) inches square. Between one-half (½) hour after sunset and one-half (½) hour before sunrise, there shall be displayed in place of the flag a red light plainly visible under normal atmospheric conditions at least two hundred (200) feet from the rear of such vehicle. (1988 Code, § 9-123)

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. (1988 Code, § 9-124)

15-119. Vehicles and operators to be licensed. It shall be unlawful for any person to operate a motor vehicle in violation of the "Tennessee Motor Vehicle Title and Registration Law" or the "Uniform Motor Vehicle Operators' and Chauffeurs' License Law." (1988 Code, § 9-125)

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. (1988 Code, § 9-126)

15-121. Damaging pavements. 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. (1988 Code, § 9-119)

15-122. Unauthorized use of blue flashing lights on vehicles. It shall be unlawful for any person other than a law enforcement officer to display or use a blue flashing light on a vehicle. (1988 Code, § 9-127)

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 of title 15 of this title of this municipal code; or at the time of an accident for which notice is required under Tennessee Code Annotated, § 55-10-106, the officer shall request evidence of financial responsibility as required by this section. In case of an accident for which notice is required under Tennessee Code Annotated, § 55-10-106 the officer shall request such evidence from all drivers involved in the accident, without regard to apparent or actual fault.

(3) For the purposes of this section, "financial responsibility" means:

(a) Documentation, such as the declaration page of an insurance policy, an insurance binder, or an insurance card from an insurance company authorized to do business in Tennessee, stating that a policy of insurance meeting the requirements of the Tennessee Financial Responsibility Law of 1977, compiled in Tennessee Code Annotated, chapter 12, title 55, has been issued.

(b) A certificate, valid for one (1) year, issued by the commissioner of safety, stating that a cash deposit or bond in the amount required by the Tennessee Financial Responsibility Law of 1977, compiled in Tennessee Code Annotated, chapter 12, title 55, has been paid or filed with the commissioner, or has qualified as a self-insurer under Tennessee Code Annotated, § 55-12-111; or

(c) The motor vehicle being operated at the time of the violation was owned by a carrier subject to the jurisdiction of the department of safety or the interstate commerce commission, or was owned by the United States, the State of Tennessee, or any political subdivision thereof, and that such motor vehicle was being operated with the owner's consent.

(4) Civil offense. It is a civil offense to fail to provide evidence of financial responsibility pursuant to this section. Any violation of this section is punishable by a civil penalty of up to fifty dollars ($50). The civil penalty prescribed by this section shall be in addition to any other penalty prescribed by the laws of this state or the city's municipal code of ordinances.

(5) Evidence of compliance after violation. On or before the court date, the person charged with a violation of this section may submit evidence of compliance with this section in effect at the time of the violation. If the court is satisfied that compliance was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility may be dismissed. (Ord. #426, April 2002)

15-124. Establishment of a truck route. It is the purpose of this section for semi-trucks to travel state highways and not to travel on city streets. Therefore, all semi-trucks, except for those semi-trucks making local downtown deliveries, shall comply with the following truck route:

(1) For Semi-trucks traveling Highway 30 West to Highway 27 North, Highway 27 South or Highway 30 East all semi-trucks shall turn left at the traffic light at State Route 378, also at that intersection is Coulter Garrison Funeral Home, to Highway 27 turn lane at which point trucks can turn left for Highway 27 North or right for Highway 27 South and Highway 30 East and be protected with a traffic light onto a four (4) lane highway instead of a two (2) lane city street.

(2) For Semi-trucks traveling Highway 27 North to Highway 30 West, all semi-trucks shall travel to the intersection of U.S. Highway 27 and State Route 378 and turn left and travel South to the intersection of State Route 30 and turn right on to State Route 30 West.

(3) Only those semi-trucks making local downtown deliveries to local downtown businesses shall be allowed to travel on other city streets located downtown.

(4) Those semi-trucks making local deliveries shall be exempted from the requirements of this section. (Ord. #445, March 2004, as replaced by Ord. #623, March 2020 ***Ch7_01-04-21***)

15-125. Use of engine compression braking devices. (1) All truck tractor and semi-trailers operating within the city limits of the City of Dayton, Tennessee shall conform to the visual exhaust system inspection requirements, 40 C.F.R. 202.22, of the Interstate Motor Carriers Noise Emission Standards.

(2) A motor vehicle does not conform to the visual exhaust system inspection requirements referenced in paragraph (1) of this section if inspection of the exhaust system of the motor carrier vehicle discloses that the system:

(a) Has a defect that adversely affects sound reduction, such as exhaust gas leaks or alteration or deterioration of muffler elements. Small traces of soot on flexible exhaust pipe sections shall not constitute a violation.

(b) Is not equipped with either a muffler or other noise dissipative device, such as a turbocharger (supercharger driven by exhaust by gases); or

(c) Is equipped with a cut out, bypass, or similar device, unless such device is designed as an exhaust gas driven cargo unloading system.

(3) Violations of this section shall subject the offender to a fine of fifty dollars ($50.00) per offense.

(4) This section shall be supplemental to other noise control ordinances and regulations of the City of Dayton, which may be in effect or adopted from time to time. (as added by Ord. #501, Aug. 2008)

15-126. Adoption of state traffic statutes. By the authority granted under Tennessee Code Annotated, § 16-18-302, the City of Dayton adopts by reference as if fully set forth in this section, the "Rules of the Road," as codified in Tennessee Code Annotated, § 55-8-101 through 55-8-131, and § 55-8-133 through 55-8-180. Additionally, the City of Dayton adopts Tennessee Code Annotated, § 39-14-405, § 55-4-101 through 55-4-128, § 55-4-130 through 55-4-133, § 55-8-135 through 55-8-138, § 55-8-181 through 55-8-191, § 55-8-193, § 55-8-199, § 55-8-207, § 55-9-401 through 55-9-408, § 55-9-601 through 55-9-606, § 55-12-139, and § 55-50-351, § 55-50-304, and § 55-50-333 by reference as if fully set forth in this section. (as added by Ord. #608, March 2018 ***Ch7_01-04-21***, and replaced by Ord. #630, Sept. 2020 ***Ch7_01-04-21***, Ord. #638, Feb. 2021 ***Ch8_12-04-23***, and Ord. #689, June 2023 ***Ch8_12-04-23***)

CHAPTER 2

EMERGENCY VEHICLES

SECTION

15-201. Authorized emergency vehicles defined. Authorized emergency vehicles shall be fire department vehicles, police vehicles, and such ambulances and other emergency vehicles as are designated by the chief of police. (1988 Code, § 9-102)

15-202. Operation of authorized emergency vehicles.[1] (1) The driver of an authorized emergency vehicle, when responding to an emergency call, or when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, subject to the conditions herein stated.

(2) The driver of an authorized emergency vehicle may park or stand, irrespective of the provisions of this title; proceed past a red or stop signal or stop sign, but only after slowing down to ascertain that the intersection is clear; exceed the maximum speed limit and disregard regulations governing direction of movement or turning in specified directions so long as he does not endanger life or property.

(3) The exemptions herein granted for an authorized emergency vehicle shall apply only when the driver of any such vehicle while in motion sounds an audible signal by bell, siren, or exhaust whistle and when the vehicle is equipped with at least one (1) lighted lamp displaying a red light visible under normal atmospheric conditions from a distance of 500 feet to the front of such vehicle, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.

(4) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others. (1988 Code, § 9-103)

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[1]Municipal code reference

Operation of other vehicle upon the approach of emergency vehicles: § 15-501.

15-203. Following emergency vehicles. No driver of any vehicle shall follow any authorized emergency vehicle apparently travelling in response to an emergency call closer than five hundred (500) feet or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (1988 Code, § 9-104)

15-204. Running over fire hoses, etc. It shall be unlawful for any person to drive over any hose lines or other equipment of the fire department except in obedience to the direction of a fire fighter or police officer. (1988 Code, § 9-105)

CHAPTER 3

SPEED LIMITS

SECTION

15-301. In general. It shall be unlawful for any person to operate or drive a motor vehicle upon any highway or street at a rate of speed in excess of thirty (30) miles per hour except where official signs have been posted indicating other speed limits, in which cases the posted speed limit shall apply. (1988 Code, § 9-201)

15-302. At intersections. It shall be unlawful for any person to operate or drive a motor vehicle through any intersection at a rate of speed in excess of fifteen (15) miles per hour unless such person is driving on a street regulated by traffic-control signals or signs which require traffic to stop or yield on the intersecting streets. (1988 Code, § 9-202)

15-303. In school zones. It shall be unlawful for any person to operate or drive a motor vehicle through any school zone at any rate in excess of 15 mph and said speed limit shall be in effect only when proper signs are posted with a warning flasher or flashers and are in operation and in the location set forth.

The school zones are designated upon the following streets of the City of Dayton:

(1) East Florida Avenue from South Highway 27 By-Pass to South Market.

(2) South Cherry Street from East Florida Avenue to East Colorado Avenue.

(3) East Colorado Avenue from South Cherry Street to South Market Street.

The following times are established for the operation of the warning flasher or flashers in the school zones:

(a) 7:25 A.M. to 8:05 A.M.

(b) 12:55 P.M. to 1:10 P.M.

(c) 2:20 P.M. to 3:00 P.M.. (1988 Code, § 9-203, modified)

CHAPTER 4

TURNING MOVEMENTS

SECTION

15-401. Generally. No person operating a motor vehicle shall make any turning movement which might affect any pedestrian or the operation of any other vehicle without first ascertaining that such movement can be made in safety and signaling his intention in accordance with the requirements of the state law.[1] (1988 Code, § 9-301)

15-402. Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right hand curb or edge of the roadway. (1988 Code, § 9-302)

15-403. Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of the intersection of the center line of the two roadways. (1988 Code, § 9-303)

15-404. Left turns on other than two-way roadways. At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left hand lane lawfully available to traffic moving in such direction upon the roadway being entered. (1988 Code, § 9-304)

15-405. U-turns. U-turns are prohibited. (1988 Code, § 9-305)

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[1]State law reference
Tennessee Code Annotated, § 55-8-143.

CHAPTER 5

STOPPING AND YIELDING

SECTION

15-501. Upon approach of authorized emergency vehicles.[1] Upon the immediate approach of an authorized emergency vehicle making use of audible and/or visual signals meeting the requirements of the laws of this state, the driver of every other vehicle 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. (1988 Code, § 9-401)

15-502. When emerging from alleys, etc. The drivers of all vehicles emerging from alleys, parking lots, driveways, or buildings shall stop such vehicles immediately prior to driving onto any sidewalk or street. They shall not proceed to drive onto the sidewalk or street until they can safely do so without colliding or interfering with approaching pedestrians or vehicles. (1988 Code, § 9-402)

15-503. To prevent obstructing an intersection. No driver shall enter any intersection or marked crosswalk unless there is sufficient space on the other side of such intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of traffic in or on the intersecting street or crosswalk. This provision shall be effective notwithstanding any traffic-control signal indication to proceed. (1988 Code, § 9-403)

15-504. At railroad crossings. Any driver of a vehicle approaching a railroad grade crossing shall stop within not less than fifteen (15) feet from the

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[1]Municipal code reference
Special privileges of emergency vehicles: title 15, chapter 2.

nearest rail of such railroad and shall not proceed further while any of the following conditions exist:

(1) A clearly visible electrical or mechanical signal device gives warning of the approach of a railroad train.

(2) A crossing gate is lowered or a human flagman signals the approach of a railroad train.

(3) A railroad train is approaching within approximately fifteen hundred (1500) feet of the highway crossing and is emitting an audible signal indicating its approach.

(4) An approaching railroad train is plainly visible and is in hazardous proximity to the crossing. (1988 Code, § 9-404)

15-505. At "stop" signs. The driver of a vehicle facing a "stop" sign shall bring his vehicle to a complete stop immediately before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, then immediately before entering the intersection, and shall remain standing until he can proceed through the intersection in safety. (1988 Code, § 9-405)

15-506. At "yield" signs. The drivers of all vehicles shall yield the right of way to approaching vehicles before proceeding at all places where "yield" signs have been posted. (1988 Code, § 9-406)

15-507. At traffic-control signals generally. Traffic-control signals exhibiting the words "Go," "Caution," or "Stop," or exhibiting different colored lights successively one at a time, or with arrows, shall show the following colors only and shall apply to drivers of vehicles and pedestrians as follows:

(1) Green alone, or "Go":

(a) Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

(b) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(2) Steady yellow alone, or "Caution":

(a) Vehicular traffic facing the signal is thereby warned that the red or "Stop" signal will be exhibited immediately thereafter, and such vehicular traffic shall not enter or be crossing the intersection when the red or "Stop" signal is exhibited.

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(3) Steady red alone, or "Stop":

(a) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, then before entering the intersection and shall remain standing until green or "Go" is shown alone. Provided, however, that generally a right turn on a red signal shall be permitted at all intersections within the city, provided that the prospective turning car comes to a complete stop before turning and that the turning car yields the right of way to pedestrians and cross traffic traveling in accordance with their traffic signal. The turn shall not endanger other traffic lawfully using the intersection. A right turn on red shall be permitted at all intersections except those clearly marked by a "No Turns On Red" sign, which may be erected by the city at intersections which the city decides require no right turns on red in the interest of traffic safety.

(b) Pedestrians facing such signal shall not enter the roadway.

(4) Steady red with green arrow:

(a) Vehicular traffic facing such signal may cautiously enter the intersection only to make the movement indicated by such arrow but shall yield the right-of-way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection.

(b) Pedestrians facing such signal shall not enter the roadway.

(5) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made a vehicle length short of the signal. (1988 Code, § 9-407)

15-508. At flashing traffic-control signals. (1) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal placed or erected in the city it shall require obedience by vehicular traffic as follows:

(a) Flashing red (stop signal). When a red lens is illuminated with intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or if there is no crosswalk or limit line, 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. (1988 Code, § 9-408)

15-509. Stops to be signaled. No person operating a motor vehicle shall stop such vehicle, whether in obedience to a traffic sign or signal or otherwise, without first signaling his intention in accordance with the requirements of the state law,[1] except in an emergency. (1988 Code, § 9-409)

[1]State law reference
Tennessee Code Annotated, § 55-8-143.

CHAPTER 6

PARKING

SECTION

15-601. Generally. No person shall leave any motor vehicle unattended on any street without first setting the brakes thereon, stopping the motor, removing the ignition key, and turning the front wheels of such vehicle toward the nearest curb or gutter of the street.

Except as hereinafter provided, every vehicle parked upon a street within 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. (1988 Code, § 9-501)

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. (1988 Code, § 9-502)

15-603. Occupancy of more than one space. No person shall park a vehicle in any designated parking space so that any part of such vehicle occupies more than one such space or protrudes beyond the official markings on the street or curb designating such space unless the vehicle is too large to be parked within a single designated space. (1988 Code, § 9-503)

15-604. Where prohibited. No person shall park a vehicle in violation of any sign placed or erected by the state or 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 feet (30') upon the approach of any flashing beacon, stop sign or traffic-control signal located at the side of a roadway.

(8) Within fifty feet (50') of the nearest rail of a railroad crossing.

(9) Within twenty (20) feet of the driveway entrance to any fire station, and on the side of the street opposite the entrance to any fire station within seventy-five (75) feet of the entrance when properly sign posted.

(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 space shall display a certificate of identification or a disabled veteran's license plate issued under Tennessee Code Annotated, § 55-8-160(c). (1988 Code, § 9-504)

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. (1988 Code, § 9-505)

15-606. Public parking lot. When any property is established and maintained by the city for free public parking the following regulations shall apply:

(1) Since such lot is established and maintained for the use and convenience of the consumer and his vehicle, the use of such lot by persons engaged in commercial activity at the time, whether operating a commercial or passenger vehicle, is prohibited.

(2) No motor vehicle which has a factory list weight in excess of 1 ½ tons shall be parked in such parking lot.

(3) Motor vehicles shall be parked in such parking lot within the places designated by markers and as nearly in the center of the designated stalls as possible.

(4) Persons shall drive in such parking lot only on the designated roadways, and then shall drive only in the direction as indicated by signs.

(5) No person shall drive on any roadway in such parking lot at a speed greater than five (5) miles per hour.

(6) No motor vehicle shall be parked and left unattended on any roadway in such parking lot.

(7) No person shall enter or leave such parking lot at other than the designated entrances and exits, either with a motor vehicle or as a pedestrian.

(8) No person shall use any portion of such public parking lot in such manner as to endanger the person or property of another.

(9) No person shall use any of such public parking lot as a place for the buying or selling of merchandise of any kind whatsoever.

(10) Such parking lot shall never be used as a place for overnight parking.

(11) No motor vehicle shall be parked in such parking lot for a period at any one time longer than two (2) hours. (1988 Code, § 9-506)

15-607. 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. (1988 Code, § 9-507)

CHAPTER 7

ENFORCEMENT

SECTION

15-701. Impoundment of vehicles. Members of the police department are hereby authorized, when reasonably necessary to prevent obstruction of traffic, to remove from the streets and impound any vehicle whose operator is arrested or any vehicle which is illegally parked, abandoned, or otherwise parked so as to constitute an obstruction or hazard to normal traffic. Any vehicle left parked on any street or alley for more than seventy-two (72) consecutive hours without permission from the chief of police shall be presumed to have been abandoned if the owner cannot be located after a reasonable investigation. Any impounded vehicle shall be stored until the owner claims it, gives satisfactory evidence of ownership, pays all applicable fees for towing and storage, and produces a release from the police department. (1988 Code, § 9-601)

15-702. Issuance of traffic citations.[1] When a police officer halts a traffic violator other than for the purpose of giving a warning, and does not take such person into custody under arrest, he shall take the name, address, and operator's license number of said person, the license number of the motor vehicle involved, and such other pertinent information as may be necessary, and shall issue to him a written traffic citation containing a notice to answer to the charge against him in the city court at a specified time. The officer, upon receiving the written promise of the alleged violator to answer as specified in the citation, shall release such person from custody. It shall be unlawful for any alleged violator to give false or misleading information as to his name or address. (1988 Code, § 9-602)

15-703. 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. (1988 Code, § 9-603)

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[1]State law reference
Tennessee Code Annotated, § 7-63-101, et seq.

15-704. Illegal parking. Whenever any motor vehicle, whether attended or unattended, 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 twenty-four (24) hours during the hours and at a place specified in the citation.

For parking violations, the offender may waive his right to a judicial hearing and have the charges disposed of out of court, but the fine shall be twenty-five dollars ($25.00) for violation of parking within fifteen (15) feet of a fire hydrant and violation of parking in a fire lane and the fine shall be fifteen dollars ($15.00) for all other parking violations, except for the violation of parking in a handicapped parking space under § 15-604(13) of this code, for which the offender shall be fined one hundred dollars ($100.00) and may be punished in accordance with Tennessee Code Annotated, § 55-21-108. (1988 Code, § 9-604, as amended by Ord. #402, June 2000)

15-705. Deposit of drivers' 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 an 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. The officer, or the court demanding bail, who receives any person chauffeur's or operator's license as herein provided, shall issue to the person a receipt for said license upon a form approved or provided by the Tennessee Department of Safety.

(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 provisions of Tennessee Code Annotated, § 55-7-401, et seq. (1988 Code, § 9-605)

TITLE 16

STREETS AND SIDEWALKS, ETC[1]

CHAPTER

CHAPTER 1

MISCELLANEOUS

SECTION

16-101. Obstructing streets, alleys, or sidewalks prohibited. No person shall use or occupy any portion of any public street, alley, sidewalk, or right of way for the purpose of storing, selling, or exhibiting any goods, wares, merchandise, or materials. (1988 Code, § 12-101)

16-102. Trees projecting over streets, etc., regulated. It shall be unlawful for any property owner or occupant to allow any limbs of trees on his property to project out over any street, alley at a height of less than fourteen (14) feet or over any sidewalk at a height of less than eight (8) feet. (1988 Code, § 12-102)

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[1]Municipal code reference
Related motor vehicle and traffic regulations: title 15.

16-103. Trees, etc., obstructing view at intersections prohibited. It shall be unlawful for any property owner or occupant to have or maintain on his property any tree, shrub, sign, or other obstruction which prevents persons driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. (1988 Code, § 12-103)

16-104. Projecting signs and awnings, etc., restricted. Signs, awnings, or other structures which project over any street or other public way shall be erected subject to the requirements of the building code.[1] (1988 Code, § 12-104)

16-105. Banners and signs across streets and alleys restricted. It shall be unlawful for any person to place or have placed any banner or sign across or above any public street or alley. Exceptions to this section may be approved by the city council for the City of Dayton on a case-by-case basis only for civic, non-profit organizations who request to place signs or banners across or above a public street or alley and provided that the signs are of a civic, non-profit nature and purpose. For purposes of this section, "non-profit organizations" are defined as follows: those organizations that have 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. (1988 Code, § 12-105, as replaced by Ord. #497, Feb. 2008)

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. (1988 Code, § 12-106)

16-107. Littering streets, alleys, or sidewalks prohibited. It shall be unlawful for any person to litter, place, throw, track, or allow to fall on any street, alley, or sidewalk any refuse, glass, tacks, mud, or other objects or materials which are unsightly or which obstruct or tend to limit or interfere with the use of such public ways and places for their intended purposes. (1988 Code, § 12-107)

16-108. Obstruction of drainage ditches. It shall be unlawful for any person to permit or cause the obstruction of any drainage ditch in any public right of way. (1988 Code, § 12-108)

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[1]Municipal code reference
Building code: title 12, chapter 1.

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. (1988 Code, § 12-109)

16-110. Operation of trains at crossings regulated. No person shall operate any railroad train across any street or alley without giving a warning of its approach as required by state law; nor shall he make such crossing at a speed in excess of forty-five (45) miles per hour. It shall also be unlawful to stop a railroad train so as to block or obstruct any street or alley for a period of more than five (5) consecutive minutes. (1988 Code, § 12-110)

16-111. Animals and vehicles on sidewalks. It shall be unlawful for any person to ride, lead, or tie any animal, or ride, push, pull, or place any vehicle across or upon any sidewalk in such manner as unreasonably interferes with or inconveniences pedestrians using the sidewalk. It shall also be unlawful for any person knowingly to allow any minor under his control to violate this section. (1988 Code, § 12-111)

16-112. Fires in streets, etc. It shall be unlawful for any person to set or contribute to any fire in any public street, alley, or sidewalk. (1988 Code, § 12-112)

CHAPTER 2

EXCAVATIONS AND CUTS[1]

SECTION

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 the permit shall be retroactive to the date when the work was begun. (1988 Code, § 12-201)

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

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[1]State law reference

This chapter was patterned substantially after the ordinance upheld by the Tennessee Supreme Court in the case of City of Paris, Tennessee v. Paris-Henry County Public Utility District, 207 Tenn. 388, 340 S.W.2d 885 (1960).

contain an agreement that the applicant will comply with all ordinances and laws relating to the work to be done. Such application shall be rejected or approved by the city recorder within twenty-four (24) hours of its filing. (1988 Code, § 12-202)

16-203. Fee. The fee for such permits shall be twenty dollars ($20.00). (1988 Code, § 12-203)

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. (1988 Code, § 12-204)

16-205. Safety restrictions on excavations. Any person, firm, corporation, association, or others making any excavation or tunnel shall do so according to the terms and conditions of the application and permit authorizing the work to be done. Sufficient and proper barricades and lights shall be maintained to protect persons and property from injury by or because of the excavation being made. If any sidewalk is blocked by any such work, a temporary sidewalk shall be constructed and provided which shall be safe for travel and convenient for users. (1988 Code, § 12-205)

16-206. Restoration of streets, etc. Any person, firm, corporation, association, or others making any excavation or tunnel in or under any street, alley, 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. (1988 Code, § 12-206)

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 $100,000 for each person and $300,000 for each accident, and for property damages not less than $25,000 for any one (1) accident, and a $75,000 aggregate. (1988 Code, § 12-207)

16-208. Time limits. Each application for a permit shall state the length of time it is estimated will elapse from the commencement of the work until the restoration of the surface of the ground or pavement, or until the refill is made ready for the pavement to be put on by the 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. (1988 Code, § 12-208)

16-209. Supervision. The person designated by the board of mayor and aldermen shall from time to time inspect all excavations and tunnels being made in or under any public street, alley, or other public place in the 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. (1988 Code, § 12-209)

16-210. Driveway curb cuts. No one shall cut, build, or maintain a driveway across a curb or sidewalk without first obtaining a permit from the

building inspector. Such a permit will not be issued when the contemplated driveway is to be so located or constructed as to create an unreasonable hazard to pedestrian and/or vehicular traffic. No driveway shall exceed thirty-five (35) feet in width at its outer or street edge and when two (2) or more adjoining driveways are provided for the same property a safety island of not less than ten (10) feet in width at its outer or street edge shall be provided. Driveway aprons shall not extend out into the street. (1988 Code, § 12-210)

CHAPTER 3

SPECIAL EVENTS AND PARADES

SECTION

16-301. Definitions. (1) "Parade." Any parade, march, ceremony, show, exhibition, pageant, or procession of any kind, or any similar display, in or upon any street, park, or other public place in the city.

(2) "Permit." A permit as required by this chapter.

(3) "Sound amplifying system." Any system of electrical hook-up or connection, loud speaker system or equipment, sound amplifying system, and any apparatus, equipment, device, instrument, or machine designed for or intended to be used for the purpose of amplifying the sound or increasing the volume of the human voice, musical tone, vibration, or sound wave.

(4) "Special event." The temporary use, with a valid permit, of public property including streets, sidewalks, beaches, parks, harbor, and community centers for the purpose of conducting certain short-term events such as art shows, music concerts, fund-raising events, sidewalk sales, amusement attractions, circuses, carnivals, rodeos, sporting events, including but not limited to, walkathons, marathon runs, exhibitions, or related activities. (1988 Code, § 12-301)

16-302. Permit required. No person shall organize, produce, direct, conduct, manage, institute, or carry on any special event or parade without a permit from the city. A permit is required if applicant desires to reserve and preempt public use of a portion of public property for a temporary period. No person shall promote, advertise, encourage, or solicit attendance or otherwise participate in any way in a special event or parade for which no permit has been issued, or for which the permit has been suspended or revoked. (1988 Code, § 12-302)

16-303. Interference with special event or parade. No person shall knowingly join or participate in any special event or parade in violation of any of the terms, conditions, or regulations of the permit issued therefor, or knowingly join or participate in any special event or parade without the consent and over the objection of the permittee or in any manner interfere with the orderly conduct of such event. (1988 Code, § 12-303)

16-304. Special events committee established. There is hereby established a special events committee composed of the chief of police, the fire chief, the recreation director, and the city manger, or their designated representative. The city manager or his authorized representative shall be the chairperson of the committee. (1988 Code, § 12-304)

16-305. Permit application for special events other than parade.

(1) An application for a permit for a special event shall be filed with the city manager not less than fifteen (15) days nor more than sixty (60) days before the date proposed for holding of a special event. The application shall be signed by the applicant or his/her authorized agent and shall be accompanied by a nonrefundable processing fee of one dollar ($1.00) to cover administrative costs. The fee shall be payable to the City of Dayton.

(2) An application for a parade permit shall be made pursuant to the provisions set forth in § 16-323.

(3) Music concert permits shall be issued according to procedures set forth in this chapter.

(4) Applicant may be required to obtain a separate "public dance" permit. (1988 Code, § 12-305)

16-306. Contents of application. Application for a permit to hold a special event shall be made on forms provided by the city and approved by the special events committee. The application shall contain the following:

(1) The name and address of the applicant, and if the applicant is a corporation, the names of its principal officers or if it is a partnership, association, or organization, the names of the partners or person comprising the association, organization, or company with the address and telephone number of each.

(2) If the applicant is a charitable or religious association, the application shall be signed by two (2) officers of the association, and shall include the following:

(a) A list of the names of all persons authorized to solicit contributions on behalf of the association.

(b) Total amount of funds sought to be raised.

(c) The percentage of funds to be used for expenses and percentage of funds to be used for charitable or religious purposes.

(d) If a promoter or noncharitable association or entertainment group or person is to be used to raise funds for the charitable association, the name and home and business addresses of the promoter, noncharitable association, entertainment group, or person.

(3) A detailed description of the special event proposed to be held, the number of persons participating in the event, number of spectators and vehicles expected, the purpose of the event, the date, hours and location where the event is proposed to be held, and participate entry fee, if any, to be charged.

(4) A detailed description of the equipment to be used, if any, including the number and types of vehicles; the number of sound amplifying systems, whether mounted, portable or stationary; the time and area of operation of the sound amplifying systems; the number and type of special units such as musical groups, animal zoos, or shows and the like.

(5) An agreement that the city shall be compensated for any damage to public property, and that the site shall be cleaned and restored to the condition in which it was found prior to the holding of the special event.

(6) A detailed list of items to be sold and/or given away.

(7) Such other information as the special events committee may require to adequately evaluate the application. The application shall be signed by the applicant under penalty of perjury. (1988 Code, § 12-306)

16-307. Procedure for processing applications. All applications for permits to hold special events shall be filed with the city manager to be forwarded to the members of the special events committee for investigation of the persons involved with the activity proposed to be conducted, and other facts, circumstances, and information relating to the application. The committee shall, within thirty (30) days after the filing of an application, grant or refuse to issue a permit. If any member of the committee objects to the issuance of the permit, the chairperson shall promptly convene a meeting of the committee. If the committee does not unanimously approve the permit, the permit shall be denied. Applicant may appeal the denial as set forth in§ 16-318 of this chapter. Grounds for denial of a permit are set forth in § 16-311. (1988 Code, § 12-307)

16-308. Notice of granting or refusal of permit. The granting or refusal of any permit by the special events committee shall be final unless appealed to the city council within ten (10) days from the date of service of written notice of the decision of the committee on the application. Failure to file an appeal within this ten (10) day period shall constitute a waiver of the right to appeal. The notice shall be deemed received five (5) days after deposit, postage prepaid, in the United States mail. (1988 Code, § 12-308)

16-309. Surety and insurance. Prior to the issuance of a permit, the special events committee shall require:

(1) In lieu of an agreement to compensate the city for loss or damage to public property, the deposit of a surety bond or cash in an amount sufficient to guarantee the cleaning up of the site and the removal of any debris left as a result of the holding of a special event. If it is determine that the special event will warrant the presence of police officers, paramedics, or special officers for patrol or parking duty, the special events committee shall also require the deposit of a surety bond or cash in an amount sufficient to pay the additional costs of providing these officers; and

(2) That the applicant provide public liability insurance and property damage insurance, including products liability coverage written by an insurance company acceptable to the city in limits of not less then one hundred thousand dollars ($100,000.00) to five hundred thousand dollars ($500,000.00) per occurrence, naming the City of Dayton as insurers; or

(3) Execute a hold harmless agreement indemnifying the City of Dayton for any personal injury or property damage arising from the special event.

The special events committee shall consider the recommendation of the city manager, the likelihood of harm to participants and spectators, as well as the financial hardship to the applicant when deciding if insurance is required. (1988 Code, § 12-309)

16-310. Conditions for granting permit. (1) A condition to granting the permit the special events committee may impose reasonable terms and regulations concerning the time and place of the event; the area and manner of conducting the event; the maximum number of persons participating therein; the regulation of traffic, if required, including the number and type of vehicles, the number and type of signs and barricades to be provided by the applicant, if any, together with a plan of their disposition attached to the application; permissible decibel levels; and such other requirements as it may find reasonable and necessary for the protection of persons and property.

(2) The special events committee may require applicant to compensate the city for incidental costs such as utility charges and increased fire and police protection. Permittee, as a condition to granting the permit, agrees to bear these costs.

(3) As an additional condition to granting the permit, applicant shall be required to ensure that participants and spectators of the special event abide by the rules and regulations of this code and all other applicable local, state, and federal laws.

(4) The city police department has the authority to stop a special event at any time it determines the public safety is in jeopardy.

(5) Applicant is prohibited from charging any spectator a fee for observing a special event at the beach unless approved in writing by the city manager.

(6) Applicant may request a waiver of any condition set forth herein or otherwise found in this code in accordance with procedures allowing the waiver to be granted. (1988 Code, § 12-310)

16-311. Grounds for denial of permit. The special events committee shall not issued any permit if it finds any of the following:

(1) The application is not on form provided or does not contain the required information.

(2) The applicant has knowingly made any false, misleading, or fraudulent statement of material fact in the application for a permit.

(3) The building, structure, equipment, or location of the special event does not comply with or fails to meet any of the health, zoning, fire, and safety requirements or standards of the City of Dayton, County of Rhea, or the State of Tennessee applicable thereto.

(4) The activity or location of the activity is such as to interfere with or unreasonably obstruct the free flow of vehicular traffic or other means of travel on any public street, or pedestrian traffic on the sidewalks.

(5) Proof of insurance, as may be required by this chapter as a prerequisite to the holding of a special event, has not been filed with the city.

(6) The conduct of the special event will be contrary to law.

(7) The conduct of the special event will unreasonably interfere with the preservation of the public peace, health, safety, or welfare of the public.

(8) Applicant has had a similar special event permit denied for good cause within one (1) year prior to the application, and can show no material change in circumstances since that denial.

(9) Applicant refuses to agree to abide by or comply with all conditions and regulations attendant to the permit.

(10) The event will interfere or conflict with another event for which a permit has already been issued, or will interfere or conflict with another event for which no permit is required by this code.

The special events committee shall notify applicant in writing specifically stating all reasons for denial of the permit. (1988 Code, § 12-311)

16-312. Reconsideration of applications. The special events committee may reconsider all or part of an application for a permit, or any permit previously granted, either upon request of the applicant or a member of the committee after five (5) days written notice thereof to applicant. The motion for reconsideration shall not be a condition precedent to judicial review. (1988 Code, § 12-312)

16-313. Contents of special event permit. A special event permit shall contain the following:

(1) The name of the person or organization to whom issued.

(2) The address and telephone number of the person or organization named on the permit.

(3) The type of activity for which the permit has been issued.

(4) The date, hour, and location for the event.

(5) Expiration date.

(6) Any conditions imposed on the holding of the special event. (1988 Code, § 12-313)

16-314. Submission of alternative upon denial of permit. If a permit has been denied because of a conflict of date or hour for the proposed event, the applicant may request reconsideration of the application and submit therewith an alternative date and hour for the holding of the event. (1988 Code, § 12-314)

16-315. Consideration of late applications. The special events committee, in its discretion, may consider any application filed with the recreation department less than fifteen (15) days prior to the time requested for holding a special event. (1988 Code, § 12-315)

16-316. Notice to city departments of issuance of permit. Upon issuance of a special event permit, the recreation department shall forward a copy of the permit, including conditions imposed thereon, to the police and fire departments. (1988 Code, § 12-316)

16-317. Suspension or revocation of permit. A permit for an event issued hereunder shall be summarily suspended or revoked by the special events committee at any time:

(1) When it has reasonable cause to believe that any of the grounds exist for which the original application for permit would have been denied; or

(2) When it has reason to believe that the health, safety, and welfare or persons or property would be endangered because of real or threatened disaster, public calamity, riot, or other emergency.

Notice of the suspension or revocation shall be made in writing to the applicant or permittee. (1988 Code, § 12-317)

16-318. Appeal of denial, suspension, or revocation of permit. An appeal from a denial, suspension, or revocation of a permit may be taken to the city council within ten (10) days after service of notice of such action on the application or permittee. The appeal shall be in writing, setting forth fully the grounds upon which the appeal is based, and shall be filed with the city recorder who shall forward copies to the city council and members of the special events committee. The special events committee shall submit to the city council a report of the case appealed. (1988 Code, § 12-318)

16-319. Council action on appeal. (1) Within thirty (30) days after filing the appeal with the city recorder, the city council shall consider the appeal at a regular meeting. Written notice of the time and place the council will consider the appeal shall be mailed by the city recorder to the person who filed the appeal at least ten (10) days before the date set for hearing unless the applicant/permittee waives notice in writing.

(2) In any appeal, the city council shall consider the application, the report of the case submitted by the special events committee, and other pertinent information presented, and may grant or deny the permit subject to the conditions, terms, and regulations set forth in this chapter. The decision of the council shall be final.

(3) The city recorder shall, within three (3) days after decision of the city council, notify the applicant/permittee in writing of the decision of the council. (1988 Code, § 12-319)

16-320. Decision review by council. (1) The city council may, on its own motion, made within twenty (20) days after the decision of the special events committee, review the issuance, denial, suspension, or revocation of any permit, or review any condition, term, or regulation attached thereto.

(2) If, after review, the city council determines that the matter should be considered on appeal before it, it shall order the city recorder to notify the applicant/permittee, special events committee, and any other affected parties of the time and place of such consideration, as hereinabove provided. After such consideration, the city council may grant or deny the permit subject to the conditions, terms, and regulations set forth in this chapter. (1988 Code, § 12-320)

16-321. Exceptions for city. No permit shall be required under this chapter for any event sponsored or co-sponsored by the City of Dayton. (1988 Code, § 12-321)

16-322. Parade permit exceptions. The provisions of this chapter dealing with parades shall not apply to:

(1) Funeral processions.

(2) Students going to and from school classes or participating in educational activities, if such conduct is under the immediate direction and supervision of the proper school authorities.

(3) A governmental agency acting within the scope of its functions. (1988 Code, § 12-322)

16-323. Parade permit application. A person seeking issuance of a parade permit shall file an application with the city manger on forms provided by the city manager.

(1) Filing period. An application for a parade permit shall be filed with the city manager not less than thirty (30) days nor more than forty-five (45) days before the date on which the parade is to be held.

(2) Contents. The application for a parade permit shall set forth the following information:

(a) The name, address, and telephone number of the person seeking to conduct the parade.

(b) If the parade is proposed to be conducted for, on behalf of, or by an organization, the name, address, and telephone number, of the

headquarters of the organization, and of the authorized and responsible heads of the organization.

(c) The name, address, and telephone number of the person who will be the parade chairman and who will be responsible for its conduct.

(d) The date when the parade is to be conducted.

(e) The route to be traveled, the starting point, and termination point.

(f) The approximate number of persons, animals, and vehicles, that will constitute the parade; the type of animals, and a description of the vehicles.

(g) The hours when the parade will start and end.

(h) A statement whether the parade will occupy all or only a portion of the width of the streets proposed to be traversed.

(i) The location by streets of any assembly areas for the parade.

(j) The time at which units of the parade will begin to assemble at any such assembly area or areas.

(k) The interval of space to be maintained between units of the parade.

(l) If the parade is designated to be held by and on behalf of or for any person or organization other than the applicant, a statement in writing from the person or organization proposing to hold the parade authorizing the applicant to apply for the permit on behalf of the person or organization.

(m) The number, names, and addresses, if known, of any persons who will assist the applicant or the person or organization on whose behalf the application is filed to maintain orderly conduct among persons participating in the parade.

(3) Fee. There shall be paid at the time of filing the application for a parade permit a fee of fifteen dollars ($15.00). (1988 Code, § 12-323)

16-324. Standards for issuance. The city manager shall issue a permit as provided for by this chapter when, after a consideration of the application and other information otherwise obtained, he finds that:

(1) The conduct of the parade will not substantially interrupt the safe and orderly movement of other traffic contiguous to its route.

(2) The conduct of the parade will not require the diversion of so great a number of police officers of the city to properly police the line of movement and areas contiguous thereto as to prevent adequate police protection to the city.

(3) The concentration of persons, animals, and vehicles at assembly points of the parade will not unduly interfere with proper fire and police protection to areas contiguous to the assembly areas.

(4) The conduct of the parade will not interfere with the movement of fire fighting equipment enroute to a fire.

(5) The conduct of the parade is not reasonably likely to cause injury to persons or property, to provoke disorderly conduct, or create disturbance.

(6) The parade is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays enroute.

(7) The parade will not have as a primary function the publication or advertisement of a person, business, organization, or event, even though that event is sponsored for charity; however, a permit shall not be issued for a parade if any major portion of the theme of the parade is directed at solicitation of funds, sale of merchandise or tickets, or any other exploitation of the spectators. Further, a permit shall not be issued if the parade as sponsored would endanger public safety.

the city manager shall act upon the application for a parade permit within ten (10) days after the filing thereof. If the city manager disapproves the application, within two (2) days after his decision he shall mail to the person or to the organization on whose behalf the application was filed, to the mail address shown on the application for that person or organization, a notice of his actions stating all reasons for his denial of the permit. (1988 Code, § 12-324)

16-325. Alternative permit. The city manger, in denying an application for a parade permit, may authorize the conduct of the parade on a date, at a time, or over a route different form that named by the applicant. An applicant desiring to accept an alternate permit shall, within the time provided for filing a notice of appeal after notice of the action of the city manger, file a written notice of acceptance with the city manager. An alternate parade permit shall conform to the requirements of and shall have the effect of a parade permit under this chapter. (1988 Code, § 12-325)

16-326. Notice of issuance of parade permit. Immediately upon the issuance of a parade permit, the city manger shall send a copy thereof to the following:

(1) The chief of police.
(2) City attorney.
(3) Fire chief.
(4) Mayor. (1988 Code, § 12-326)

16-327. Contents of parade permit. Each parade permit shall state the following information:

(1) Starting time.
(2) Minimum speed.
(3) Maximum speed.

(4) Maximum intervals of space to be maintained between the units of the parade.

(5) Portions of the street to be traversed that may be occupied by the parade.

(6) The maximum length of the parade in miles or fractions thereof.

(7) Such other information as the city manager finds necessary to the enforcement of this chapter. (1988 Code, § 12-327)

16-328. Parade permit revocation. The city manger may revoke a parade permit issued hereunder and order the dispersal of the participants of the parade upon the refusal of the applicant, person, or organization or the participants of the parade to conduct the parade pursuant to the provisions of the parade permit issued. (1988 Code, § 12-328)

16-329. Duties of permittee; chairman to carry permit. A permittee hereunder shall comply with all permit directions and conditions and with all applicable laws and ordinance.

The parade chairman or other person heading or leading the activity shall carry the parade permit upon his person during the conduct of the parade. (1988 Code, § 12-329)

16-330. Regulations generally. (1) Interference. No person shall unreasonably hamper, obstruct, impede, or interfere with any parade or parade assembly or with any person, vehicle, or animal participating or used in a parade.

(2) Driving through parade. No driver of a vehicle shall drive between the vehicles or persons comprising a parade when the vehicles or persons are in motion and are conspicuously designated as a parade.

(3) Parking on a parade route. The city manager may, when reasonably necessary, prohibit or restrict the parking of vehicles along a highway or part thereof constituting a part of the route of a parade. The city manager shall post signs to this effect, and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof. No person shall be liable for parking in a street unposted in violation of this section. (1988 Code, § 12-330)

16-331. Appeal procedure. Any person or organization aggrieved may appeal the denial of a parade permit to the city council. A notice of appeal shall be filed within five (5) days after mailing of the notice of denial. The city council shall act upon the appeal at the next regular scheduled or adjourned meeting of the city council occurring after the filing of the notice of appeal. The notice of appeal shall be considered to have been filed upon its receipt in the mail by the

City of Dayton. The notice of appeal shall be addressed to the city manager or the city recorder of the City of Dayton. The city council shall act to grant or deny the appeal at the first meeting at which the appeal is on the council's agenda unless the appellant agrees to a continuance of the matter for further consideration. No other action than filing the notice of appeal shall be necessary to have the appeal placed on the agenda of the city council. (1988 Code, § 12-331)

16-332. Penalty for violation. Any person violating any provision of this chapter or condition of the permit shall be guilty of a misdemeanor and upon conviction thereof shall be punished in accordance with the general penalty clause for this code of ordinances. (1988 Code, § 12-332)

TITLE 17

REFUSE AND TRASH DISPOSAL[1]

CHAPTER

CHAPTER 1

UNIFORM REFUSE DISPOSAL

SECTION

17-101. Definitions. (1) "Bulk rubbish" means wooden and cardboard boxes, crates, appliances, furniture, bedding, and other refuse items which by their size and shape cannot be readily placed in city-approved containers.

(2) "Class one container" means a residential refuse container constructed of strong and durable material, rodent and insect proof, and not readily corrodible. They shall have a capacity of not more than thirty-two (32) gallons and not less than twenty (20) gallons, and when filled, shall weigh not more than fifty (50) pounds. Residential refuse containers shall be equipped with handles on both sides to facilitate emptying and shall be equipped with tight fitting lids or covers constructed of the same material of such design to

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[1]Municipal code reference
Property maintenance regulations: title 13.

preclude the free access of flies and insects and to prevent containers from collecting water during rain or snow. This class of containers shall include plastic bags but the plastic bags shall be the type manufactured for this use and shall be of sufficient thickness and strength to support the contents during handling and loading into the packer trucks by the sanitation workers. All plastic bags shall be securely tied at the top.

(3) "Class II containers" means dumpsters with a capacity of 3-6 cubit yards that remain at the point of collection designated by the city.

(4) "Collector" means any person, firm, or corporation that collects, transports, or disposes of any refuse within the corporate limits of the City of Dayton.

(5) "Commercial establishment" means any business, industrial, institutional or agricultural establishment; office or professional building; shopping center; multiple business complex; commercial housing facility; church; hospital; club; or similar organization.

(6) "Commercial solid waste" means solid waste resulting from the operation of any commercial, industrial, institutional, or agricultural establishment

(7) "Construction waste" means materials from construction, demolition, remodeling, and construction site preparation, including, but not limited to, rocks, bricks, dirt, debris, fill, plaster, guttering, and all types of scrap materials.

(8) "Garbage" means all household waste, including, but not limited to, food waste, bottles, waste papers, tin cans, clothing, small mechanical parts, small dead animals, and rubbish, excluding tree limbs, shrubbery trimmings, leaves, construction waste, human or animal excreta or fecal matter, large dead animals, large mechanical parts, and bulk rubbish.

(9) "Person" means any natural person, association, partnership, firm, or corporation.

(10) "Refuse" means solid waste.

(11) "Residential garbage" means garbage resulting from operation and maintenance of dwelling units, excluding commercial housing facilities.

(12) "Solid waste" is unwanted or discarded waste materials in a solid or semi-solid state, including, but not limited to, garbage, ashes, street refuse, rubbish, dead animals, animal and agriculture waste, yard waste, appliances, furniture, special waste, industrial waste, and demolition and construction waste, excluding bulk rubbish.

(13) "Yard waste" means grass clippings, leaves, tree and shrubbery trimmings, and other related yard waste materials.

Singular shall include the plural and the masculine shall include the feminine and the neuter. (1988 Code, § 8-201)

17-102. <u>Responsibility for administration</u>. (1) The city manager or his designee may make and modify regulations as necessary concerning days of

collection, distribution, and location of containers, and other matters pertaining to the collection, transportation, an disposal of solid waste, if the regulations are not in violation of the provisions of this chapter.

(2) The city manager or his designee shall be responsible for the enforcement of this chapter. (1988 Code, § 8-202)

17-103. Residential facilities, containers, and collection procedures. (1) Containers. Residential facilities shall supply, at their expense, a Class I container. All refuse, unless otherwise provided herein, shall be deposited therein. Each owner, occupant, tenant, sub-tenant, lessee, or others using or occupying any building, house, structure, or grounds, within the corporate limits of the City of Dayton where refuse materials and substances as defined in this chapter accumulate or are likely to accumulate shall provide an adequate number of approved Class I containers for the storage of the refuse.

(2) Collection procedures; general regulation. (a) Residential garbage intended for collection by the city shall be placed in Class I containers. Frequency of collection for residential refuse is one (1) time per week.

(b) On the scheduled day of collection all containers must be placed at the edge of the street, curb, alley, or designated location approved for pickup. Containers shall be placed in such a location and manner as to be readily accessible with city collection equipment. Containers must not be placed in the location for pickup so as to interfere with overhead power lines or tree branches, parked cars, vehicular traffic, or in any other way that would constitute a public hazard or nuisance.

(c) Containers shall be placed for collection on the day of collection and shall be removed immediately after emptying.

(d) Leaving containers at curb side except during the period specified for collection, or not otherwise secured, constitutes neglect by the occupant or property owner.

(e) Bulk rubbish and construction waste are hereby prohibited from being placed in Class I containers. (1988 Code, § 8-203)

17-104. Commercial collection procedures, containers, and general regulations. (1) Commercial solid waste shall not be collected by the city but only refuse which is placed in Class II containers. The commercial establishment shall, at its expense prior to the first pickup, supply a city-approved Class II waste container. These containers must be purchased either through the City or through a private vendor with prior approval by the city. The city will assist the commercial establishment with the purchase of the containers; however, the containers will be the property of the commercial establishment who shall be responsible for the maintenance and replacement of the container at its expense.

Not more than two (2) Class II containers shall be authorized for use by any one commercial establishment.

(2) Servicing of the containers at commercial establishments will be at the direction and frequency designated by the city manager.

(3) Class II containers shall at all times be kept in a place easily accessible to city equipment. No service shall be given to those establishments permitting objects, obstructions, or vehicles to hinder in any way whatsoever the servicing of the containers.

(4) The owner or user of all Class II containers shall be responsible for the sanitary maintenance, structural maintenance, and replacement of the containers.

(5) Nothing in this section shall prohibit commercial establishments from removing their own solid waste or from contracting with a private collector for such removal if the private collector has a valid permit or license to do business within the city.

(6) The owner or user of all Class II containers shall be responsible for seeing that substances placed into the containers are not in violation of this chapter and will not damage the equipment of the city due to weight and if it is determined that the content of the container damages the equipment of one city, then the owner or user shall be responsible for repair of the collection equipment. (1988 Code, § 8-204)

17-105. Premises to be kept clean. All persons, firms, and corporations within the corporate limits of the City of Dayton are hereby required to keep their premises in a clean and sanitary condition, free form accumulations of refuse, offal, filth, and trash. Such persons, firms, and corporations are hereby required to store such refuse in Class I or Class II sanitary containers between intervals of collection or to dispose of such materials in a manner prescribed by the city manager or the city health officer, so as not to cause a nuisance or become injurious to the public health and welfare. (1988 Code, § 8-205)

17-106. Accumulation and storage of refuse. (1) Each owner, occupant, tenant, sub-tenant, lessee, or others using or occupying any building, house structure, or grounds within the corporate limits of the City of Dayton where refuse materials and substances as defined in this chapter accumulate or are likely to accumulate shall provide an adequate number of approved containers for the storage of such refuse.

(2) Preparation of refuse. (a) All refuse shall be drained and free of liquids before disposal. Containers that have collected liquids or water shall be reason for the container to be passed up for that week.

(b) All refuse, even if placed in a container, shall be in plastic bags and the plastic bags shall be the type manufactured for this use and shall be of sufficient thickness and strength to support the contents during handling and loading into the packer trucks by the sanitation workers. All plastic bags shall be securely tied at the top. Failure to place

refuse in a plastic bag as required herein, shall be reason for the container to be passed up for that week.

(c) Garbage (including animal waste) shall be wrapped in paper or similar material.

(d) All cans, bottles, or food containers shall be free of food particles and drained before disposal.

(e) Bulk rubbish shall be

(i) Placed in approved containers, or

(ii) Cut and bailed, tied, bundled, stacked, or packaged so as not to exceed thirty-six inches (36") and fifty (50) pounds in weight.

(3) Large item pickup. (a) Large item pickup service shall be for residential customers only. The City of Dayton shall not pick up large items from commercial properties or from rental properties.

(b) Large items that can be picked up. The following are large items that the City of Dayton will pick up: furniture, mattresses and box springs, and large toys such as basketball goals or ride on cars. The resident shall place large items three to five feet (3'-5') from the edge of the road.

(c) Large items that cannot be picked up. The following are some of the large items that cannot be picked up: boxes or bags of household items; limbs over eight inches (8") in diameter; hot ashes; food waste; cross ties; automobile parts, including but not limited to, batteries, transformers, automobile fuel tanks, tires or any other large automobile parts; combustible items, including but not limited to, gas, oil, paint, lacquer thinner, pesticides, or empty paint or thinner cans; building materials, including but not limited to, boards, shingles, lumber, concrete, blocks, rocks, bricks, asbestos, insulation, and sheet rock; dirt, gravel or fill materials; appliances with compressor still intact (compressors must be professionally removed prior to pick up); household garbage, including clothes; and recyclable materials, including but not limited to, cardboard, paper products, and magazines.

(d) The City of Dayton will pick up large items one time per week. It shall be the responsibility of the residential customer to schedule a large item pick up by calling city hall prior to placing the large item(s) for pick up. Additionally, the list of items that cannot be picked up set forth herein is not an exhaustive list. The resident shall be responsible for confirming with the City of Dayton that the large item can be picked up by the city prior to placing the large item for pick up. (1988 Code, § 8-206, as replaced by Ord. #653, Jan. 2022 ***Ch8_12-04-23***)

17-107. Prohibited substances and practices. (1) The following substances are prohibited and shall not be deposited into approved containers serviced by the city garbage collection equipment:

(a) Flammable liquids, solids, or gases, such as gasoline, benzine, alcohol, or other similar substances.

(b) Any material that could be hazardous or injurious to city employees or which could cause damage to city equipment.

(c) Construction waste as defined in 8-101 (5).

(d) Hot materials such as ashes, cinders, etc.

(e) Human or animal waste shall be prohibited from being placed in garbage containers unless it is placed and secured in a plastic bag or suitable paper bag.

(2) The following practices are prohibited and it shall be unlawful for any person, other than the occupant/user, to move, remove, upset, scatter, tamper with, use, carry away, deface, mutilate, destroy, damage, or interfere with the garbage containers. (1988 Code, § 8-207)

17-108. Yard waste, bulk rubbish, and other refuse. (1) Yard waste and brush collection. Yard waste and brush pickup is for residential customers only. The City of Dayton shall not pick up yard waste and brush from commercial properties, rental properties, or contractors that have been hired to trim trees, shrubs, yards, etc.

(a) Placement of brush for collection. All brush (tree limbs, shrubbery, and hedge trimmings, etc.) must be placed at the edge of a street or serviceable alley easily accessible with the city collection equipment. No item of yard waste placed out for disposal shall be placed on top of water/gas meters, or valves, piled against utility poles, guy wires, fences, or structures or any item that could be damaged by collection equipment.

(b) Piling of brush for collection. All brush shall be neatly stacked in an unscattered manner. Small trimmings should be stacked on top of larger ones with butt ends pointed in the same direction. Brush collection shall not be made where it is loosely scattered. A notice shall be given to the resident that collection cannot be made and the reason why it cannot be made.

(c) Separation of refuse. No items of refuse may be mixed with brush trimmings. Mixing wire, metal, lumber, brick, rock, dirt, or similar items with brush trimmings is prohibited by landfill regulations and collection shall be limited to separated items. Mixing leaves and grass clippings with other brush is also prohibited.

(d) Length and size of brush. Tree trunks, stumps, and limbs larger than ten inches (10"), as measured across the diameter of the butt end, shall not be collected by the city. All tree limbs longer than twelve feet (12') in length shall be cut in half and stacked with butt ends pointed in the same direction.

(e) Grass clippings and leaves. Leaves and grass clippings shall be bagged in plastic bags for removal except during the months of October

through February. Except as provided in paragraph (5) below, leaves and grass clippings not bagged in plastic bags during the months of March through September shall not be collected or removed by the city.

(2) Refuse generated through private enterprise. The City of Dayton shall not be responsible for the collection and disposal of construction waste, bulk rubbish, brush, or any other forms of solid waste generated or produced by contractors, tree trimmers, or persons doing work for profit or personal gain. Nor will any such collection of refuse be made from lot or land clearing projects including remodeling or alterations of homes or businesses or such other private projects or improvements.

(3) Bulk rubbish (junk) service. Except during a special city/county wide spring cleanup campaign, bulk rubbish service will be performed on a convenience-of-service basis. This service shall be initiated by calling the city hall. A log book of requests for bulk rubbish pick up will be maintained in the city manager's office or his designee's office. When crews can be made available for this service, the log book will be referred to and collections will be made on a first-called, first-served basis. Bulk rubbish shall not be placed at the street for collection until the customer is notified when collection will be made.

(4) The city manager or his designee shall have the authority to establish a reasonable self-help program for residents who have unusual amounts of refuse, or unusual circumstances which would prevent hauling or disposal for themselves.

(5) Seasonal leaf collection. Fall leaf collection is October through February. The street department will schedule a two (2) week period in early spring in order to collect leaves from late shedding trees. The schedule will be announced through the local news media. Following this two (2) week period all leaves must be placed in plastic bags for collection. (1988 Code, § 8-208, as replaced by Ord. #653, Jan. 2022 ***Ch8_12-04-23***)

17-109. Confiscation of unsatisfactory storage containers. Refuse containers shall be maintained in good order and repair. Any container that may have ragged or sharp edges or other defects liable to injure the person collecting the contents thereof shall be replaced. The city sanitation department will affix a tag to any defective container identifying the defects and giving the owner proper notice that the container must be replaced. When a person fails to repair or replace containers after notice has been given by the city, further collection will be discontinued until proper containers have been provided. The collectors will exercise every effort to protect the container from damage as a result of unloading or loading, but the City of Dayton will not be liable for such damages. (1988 Code, § 8-209)

17-110. Refuse not to be collected unless properly stored. In no case will it be the responsibility of the city sanitation department to shovel or

pick up from the ground any accumulation of refuse, including leaves, lawn clippings, brush, packing materials, etc. (1988 Code, § 8-210)

17-111. Unlawful to burn. It shall be unlawful for any person, firm, or corporation to burn refuse on private property within the corporate limits of the City of Dayton without first obtaining a written permit from the City of Dayton fire department. (1988 Code, § 8-211)

17-112. Dumping in streams, sewers, and drains prohibited. It shall be unlawful for any person, firm, or corporation to dump refuse in any form into a stream, ditch, storm sewer, sanitary sewer, or other drains within the corporate limits of the City of Dayton. (1988 Code, § 8-212)

17-113. Collection vehicles. The collection of refuse shall be the 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. (1988 Code, § 8-213)

17-114. Violations. (1) Any person violating any of the provisions of this chapter shall be served by the city with written notice stating the nature of the violation and providing a ten (10) day time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in the notice, permanently cease all violations.

(2) Any person who continues any violation beyond the time provided for in sub section (1) shall be guilty of a misdemeanor and shall be punishable under the general penalty clause for this code.

(3) Any person violating any of the provisions of this chapter shall become liable to the city for any expense, loss, or damage occasioned the city by reason of the violation. (1988 Code, § 8-214)

CHAPTER 2

MANDATORY RECYCLING ORDINANCE

SECTION

17-201. Items to be recycled. The following items shall be covered by this ordinance for, the purpose of being recycled:

(1) Plastic containers

(2) Glass containers

(3) Aluminum cans and all items made of aluminum

(4) All household paper except waxed cardboard, corrugated or uncorrugated. (1988 Code, § 8-601)

17-202. Program established. There is hereby established, for all owners or persons in control of any premises, a mandatory separation from other refuse that they will set at curbside, or other pickup location, for collection by the city, or any other collector, the products as listed in § 17-201. (1988 Code, § 8-602)

17-203. Separation and placing for removal--containers. The occupant or person in control of any premises who shall place for disposal, removal or collection the items listed in § 17-201 shall do so in strict conformity with the following regulations:

(1) Unwaxed, corrugated cardboard shall be deposited in the containers provided by the city and, at the present time, are of a green color and are located at specific sites throughout the City of Dayton. The deposit of these items shall require that the depositor break down the box in a flat position and insert through the slit provided.

(2) All other items listed in § 17-201 (except items listed in (1) above) shall be deposited in the blue containers or containers provided or such other receptacle provided by the city. (1988 Code, § 8-603)

17-204. Receptacle requirements. The receptacles required herein shall be supplied by the city or its representative to the occupant or owner of the premises. The occupant or owner of the premises shall keep all receptacles clean and in a condition safe for handling.

After collection, all empty containers shall be removed from the curbside promptly. (1988 Code, § 8-604)

17-205. Collection by unauthorized persons. From the time of placement at the curb by the occupant or owner of the premises, the items so deposited shall be and become the property of the City of Dayton or its authorized agent. It shall be a violation of this ordinance for any person unauthorized by the City of Dayton to collect or pickup, or cause to be collected or picked up, any such items.

Any and each such collection in violation hereof from one (1) or more residences shall constitute a separate and distinct offense punishable as hereinafter provided. (1988 Code, § 8-605)

17-206. Violation and penalty. Any person, firm or corporation that violates or neglects to comply with any provisions of the ordinance or any regulations, upon conviction thereof, shall be guilty of a misdemeanor and shall be punishable under the general penalty clause of this code. Each violation and each day a violation is committed, or permitted to continue, shall constitute a separate violation and shall be punishable as such. (1988 Code, § 8-606)

17-207. Enforcement. In addition to the penalties as prescribed in § 17-206 herein, the city manager shall be authorized to refrain from collecting or disposing of, or authorizing the collection or disposal of, any refuse as defined in § 17-101 and the items as enumerated in this chapter. (1988 Code, § 8-607)

CHAPTER 3

MISCELLANEOUS

SECTION

17-301. Sanitation fee. The city shall charge for and collect a sanitation fee for the collection of garbage and other related services and the fee shall be established as follows:

(1) Residential fee. Residents of the City of Dayton occupying residential property shall pay thirteen dollars ($13.00) per meter per month sanitation user's fee. (Residence being defined as the particular locality of the person).

(2) Professional, churches and schools. These establishments being served by the City of Dayton shall be charged a sanitation user's fee of twenty-four dollars ($24.00) per meter per month (professional being defined as a location where a person or persons exercise their vocation or calling, occupation or employment and involves skill, education, special knowledge and compensation for profit, but the labor and skill involved is predominantly mental or intellectual, rather than physical and manual). If any professional, churches or schools have a dumpster then they will be charged at the appropriate dumpster rate and not charged the twenty-four dollars ($24.00) sanitation fee.

(3) Commercial and industrial. These establishments being served by the City of Dayton shall be charged a sanitation user's fee as set out below:

8 cu. yd. dumpster	$	26.22 per time, per dumpster
6 cu. yd. dumpster	$	21.48 per time, per dumpster
4 cu. yd. dumpster	$	17.34 per time, per dumpster
3 cu. yd. dumpster	$	16.05 per time, per dumpster
2 cu. yd. dumpster	$	13.65 per time, per dumpster
1- 2 cans	$	24.00 per month with one time per week pickup
3 - 5 cans	$	19.19 per time emptied.

(4) Billing. The City of Dayton shall bill each user on a monthly basis by adding to the present electric, water and sewer charges and using the same billing cycle as is used by those services. Customers cannot opt out of the applicable sanitation fee. (1988 Code, § 8-108, as replaced by Ord. #519, Aug. 2009, Ord. #628, Oct. 2020 ***Ch7_01-04-21***, and Ord. #667, Aug. 2022 ***Ch8_12-04-23***)

TITLE 18

WATER AND SEWERS[1]

CHAPTER

CHAPTER 1

WATER

SECTION

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[1]Municipal code references
Building, utility and housing codes: title 12.
Refuse disposal: title 17.

18-101. Application and scope. These rules and regulations are a part of all contracts for receiving water service from the city and shall apply whether the service is based upon contract, agreement, signed application, or otherwise. (1988 Code, § 13-101)

18-102. Definitions. (1) "Customer" means any person, firm, or corporation who receives water service from the city under either an expressed or implied contract.

(2) "Household" means any two (2) or more persons living together as a family group.

(3) "Service line" consists of the pipe line extending from any water 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.

(4) "Discount date" means the date ten (10) days after the date of a bill, except when some other date is provided by contract. The discount date is the last date upon which water bills can be paid at net rates.

(5) "Dwelling" means any single structure, with auxiliary buildings, occupied by one (1) or more persons or households for residential purposes.

(6) "Premise" means any structure or group of structures operated as a single business or enterprise, shall not include more than one (1) dwelling.

(7) "Accessible" means that water service is available, i.e. within fifty (50) feet from the water main to the property line. However, until a structure is upon the property which uses water no connection is required. (1988 Code, § 13-102)

18-103. Obtaining service. A formal application for either original or additional service must be made and be approved by the city before connection or meter installation orders will be issued and work performed. (1988 Code, § 13-103)

18-104. Application and contract for service. Each prospective customer desiring water service will be required to sign a standard form of contract before service is supplies. If, for any reason, a customer, after signing a contract for water 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 the service.

The receipt of a prospective customer's application for service, regardless of whether or not accompanied by a deposit, shall not obligate the city to render the service applied for. If the service applied for cannot be supplied in accordance with these rules regulations, and general practice, for such service the liability of the city to the applicant shall be limited to the return of any deposit made by the applicant. (1988 Code, § 13-104)

18-105. Service charges for temporary service. Customers requiring temporary service shall pay all costs for connection and disconnection incidental to the supplying and removing of service in addition to the regular charge for water used. (1988 Code, § 13-105)

18-106. Deposit. A deposit or suitable guarantee in an amount set out below shall be required of any customer before water service is supplied. The city may, at its option, return the deposit to the customer after one (1) year. Upon termination of service, the deposit may be applied by the city against unpaid bills of the customer, and if any balance remains after such application is made, the balance shall be refunded to the customer.

DEPOSIT SCHEDULE

(1)	Residential (Owner)	$25.00
(2)	Residential (Non-owner)	$50.00
(3)	Commercial 3/4" to 2"	$50.00
(4)	Commercial 4" and up	$100.00

(1988 Code, § 13-106)

18-107. Connection charges. Service lines will be laid by the city from the water main to the property line at the expense of the applicant for service. Location of these lines will be determined by the city. There will be a thirty dollar ($30.00) connection charge when water is the only service being connected. Other miscellaneous service fees that may apply are:

Meter set fee/cut in fee requests made before 4:00 o'clock P.M. EST or next day service	$30.00
Meter set fee/cut in fee requests made after 4:00 o'clock P.M. EST for same day service	$60.00

Whenever service has been disconnected as provided for above, a reconnection charge of thirty dollars ($30.00) for those meters reconnected before 4:00 o'clock P.M. EST shall be collected by the city before service is restored to any customer and a reconnection charge of sixty dollars ($60.00) for those meters reconnected after 4:00 o'clock P.M. EST shall be collected by the city before service is restored to any customer. The city may refuse to connect or may disconnect service for the violation of any of its ordinances, rules and regulations.

Meter set fee/cut in fee requests made before 4:00 o'clock P.M. EST or next day service	$30.00
Meter set fee/cut in fee requests made after 4:00 o'clock P.M. EST for same day service	$60.00
New construction	$25.00
Meter tampering charge	$250.00
Reconnect fee requests made before 4:00 o'clock P.M. EST	$30.00
Reconnect fee requests made after 4:00 o'clock P.M. EST	$60.00
Return check fee	$25.00

Before a new service line will be laid by the city, the applicant shall pay the city a tap fee in accordance with the following schedule, regardless of whether the service line is located inside the city limits or outside the city limits:

STANDARD TAP FEES

Three-fourths inch (3/4") tap	$1,000.00
One inch (1") tap	$1,200.00
Two inch (2") tap	$3,500.00

For taps larger than two inches (2"), the fees shall be quoted by the Water Department Superintendent for the City of Dayton, Tennessee. For any new service line that requires additional work by a contractor (I .e. highway bore, etc.) the applicant shall pay for the cost of the contractor. (1988 Code, § 13-107, as amended by Ord. #447, June 2004, and replaced by Ord. #454, Oct. 2004, Ord. #582, June 2016, Ord. #587, Nov. 2016, Ord. #622, Feb. 2020 ***Ch7_01-04-20***, Ord. #631, Sept. 2020 ***Ch7_01-04-20***, and Ord. #685, March 2023 ***Ch8_12-04-23***)

18-108. Main extensions to developed areas inside the city.[1] The provisions of this section shall apply only to water main extensions of 500 feet or less to areas inside the city where there is a demand for water service by the occupants of existing houses. This section shall in no event be applicable to land development projects and subdivision promotion, even though accompanied by the erection of occasional houses within such areas. (1988 Code, § 13-108)

18-109. Main extensions to other areas in the city by developers. The provisions of this section shall apply to all areas to which the preceding section is not applicable. Customers desiring water main extensions pursuant to this section must pay all of the cost of making such extensions.

For installations under this or the preceding section, cement lined iron pipe, class 200 American Water Works Association Standard, or Poly Vinyl Chloride pipe for water distribution that conforms to Commercial Standard CS-256-63 or ASTM Specification D2241-65 "Standard Specification for Poly Vinyl Chloride (PVC) Plastic Pipe (SDR-PR and Class T)" as it applies to Type I, Grade I or 2 Poly Vinyl Chloride Plastic Pipe, SDR 21, water pressure rating of 200 psi at 23 degrees C (72.4 degrees F), no less than six inches in diameter shall be used to the dead end of any line and to form loops or continuous lines, so that fire hydrants may be placed on such lines at locations no farther than 500 feet from any buildings, such measurement to be based on road or street distance; galvanized iron pipe two inches in diameter (200 psi) or comparable PVC pipe as specified above, to supply dwellings only, may be used to supplement such lines.

All such lines shall be installed either by the city forces or by other forces working directly under the supervision of the city in accordance with plans and detailed specifications prepared or approved by the city's engineer, who shall be registered with the State of Tennessee.

Upon completion of these extensions and their approval by the city, the water mains shall become the property of the city. The persons paying the cost of constructing the mains shall execute any written instruments requested by the city to provide evidence of the city's title to the mains. In consideration of the mains being transferred to it, the city shall incorporate the mains as an integral part of the city water system and shall furnish water therefrom in accordance with these rules and regulations, subject always to any limitations that exist because of the size and elevation of the mains. (1988 Code, § 13-109)

18-110. Preceding two sections permissive only. The authority to make water main extensions under §§ 18-108 and 18-109 is permissive only and nothing contained therein shall be construed as requiring the city to make water

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[1]Municipal code reference

Water and sewer extensions outside city: title 18, chapter 3.

main extensions or to furnish service to any person or persons. (1988 Code, § 13-110)

18-111. 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. (1988 Code, § 13-111)

18-112. 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:

Meter Size	Percentage
3/4", 1", 2"	2%
3"	3%
4"	4%
6" or above	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:

Meter Size	Test Charge
3/4", 1"	$ 2.00
2"	5.00
4"	12.00
6" or above	20.00

If the test show a meter not to be accurate within these limits, the cost of the meter test shall be borne by the city. (1988 Code, § 13-112)

18-113. Schedule of rates. The following charges shall be made for all water furnished by the city to its customers. All water shall be measured, or estimated, in gallons to the nearest multiple of one thousand (1,000) gallons and shall be paid for at the following rates:

DAYTON:

RESIDENTIAL:

Monthly usage	Inside City Limits (Per 1,000 gallons)	Outside City Limits (Per 1,000 gallons)
First 1,000 gallons	$16.54 minimum	$24.81 minimum
Next 4,000 gallons	$5.83 each	$8.90 each
Next 20,000 gallons	$5.94 each	$9.06 each
Next 25,000 gallons	$6.25 each	$9.25 each
All other	$6.44 each	$9.38 each

COMMERCIAL:

Monthly usage	Inside City Limits (Per 1,000 gallons)	Outside City Limits (Per 1,000 gallons)
First 1,000 gallons	$24.81 minimum	$37.21 minimum
Next 4,000 gallons	$5.83 each	$8.90 each
Next 20,000 gallons	$5.94 each	$9.06 each
Next 25,000 gallons	$6.25 each	$9.25 each
All other	$6.44 each	$9.38 each

INDUSTRIAL (I1):

Monthly usage	Inside City Limits (Per 1,000 gallons)
First 1,000 gallons	$33.08 minimum
Next 4,000 gallons	$5.83 each
Next 20,000 gallons	$5.94 each
Next 25,000 gallons	$6.25 each
All other	$6.44 each

INDUSTRIAL (I2):

Monthly usage	Inside City Limits (Per 1,000 gallons)
First 1,000 gallons	$45.86 minimum
Next 4,000 gallons	$5.83 each
Next 20,000 gallons	$5.94 each
Next 25,000 gallons	$6.25 each
All other	$6.44 each

Industrial Rate 2 Guidelines/Requirements:
1. Must purchase a minimum of 100,000 gallons of water per day
2. Must have only one discharge point to the city's sewer system
3. Must have an approved sampling/metering station on their discharge
4. Must be located within the corporate limits of the City of Dayton.

SUMMER CITY DISTRICT:

RESIDENTIAL:

Monthly usage	Per 1,000 gallons
First 2,000 gallons	$34.78 minimum
Next 3,000 gallons	$11.91 each
Next 5,000 gallons	$12.50 each
Next 10,000 gallons	$12.69 each
All other	$12.88 each

COMMERCIAL:

Monthly usage	Per 1,000 gallons
First 2,000 gallons	$52.16 minimum
Next 3,000 gallons	$11.91 each
Next 5,000 gallons	$12.50 each
Next 10,000 gallons	$12.69 each
All other	$12.88 each

EVENSVILLE DISTRICT:

RESIDENTIAL:

Monthly usage	Per 1,000 gallons
First 1,000 gallons	$31.25 minimum
Next 4,000 gallons	$ 9.00 each
Next 20,000 gallons	$ 9.19 each
Next 25,000 gallons	$ 9.38 each
All other	$ 9.69 each

COMMERCIAL:

Monthly usage	Per 1,000 gallons
First 1,000 gallons	$43.75 minimum
Next 4,000 gallons	$ 9.00 each
Next 20,000 gallons	$ 9.19 each
Next 25,000 gallons	$ 9.38 each
All other	$ 9.69 each

The rate charged to an existing utility district, other than one owned or managed by the city, shall be the rate calculated by the yearly report of comparative costs of operation of the Dayton Water System, plus twenty percent (20%). The rate shall be adjusted at the end of each fiscal year and will be implemented on the 1st day of September of each year and shall continue each and every year thereafter until further amended.

The minimums stated above in each district shall apply only to metered customers. All customers receiving water without a meter shall pay a minimum bill that is fifteen cents ($.15) higher than each minimum listed above for each district. (1988 Code, § 13-113, as amended by Ord. #412, Nov. 2000, and Ord. #413, Nov. 2000, and replaced by Ord. #489, June 2007, Ord. #527, Jan. 2010, Ord. #539, Aug. 2010, Ord. #558, June 2012, Ord. #560, June 2013, Ord. #566, June 2014, Ord. #574, June 2015, Ord. #582, June 2016, Ord. #596, June 2017, Ord. #611, June 2018 ***Ch7_01-04-21***, Ord. #618, July 2019 ***Ch7_01-04-21***, Ord. #648, Aug. 2021 ***Ch8_12-04-23***, and Ord. #692, Aug. 2023 ***Ch8_12-04-23***)

18-114. Multiple services through a single meter. No customer shall supply water service to more than one dwelling or premise from a single service line and meter without first obtaining the written permission of the city.

Where the city allows more than one dwelling or premise to be served through a single service line and meter, the amount of water used by all the dwellings and premises served through a single service line and meter shall be allocated to each separate dwelling or premise served. The water charge for each dwelling or premise thus served shall be computed just as if each such dwelling or premise had received through a separately metered service the amount of water so allocated to it. This computation shall be made at the city's applicable water rate schedule, including the provisions as to minimum bills. The separate charges for each dwelling or premise served through a single service line and meter shall then be added together, and the sum thereof shall be billed to the customer in whose name the service is supplied. (1988 Code, § 13-114)

18-115. Billing. A copy of the current applicable rates may be obtained at the Dayton City Hall and an effort will be made to notify customers of any rate changes either by public media or mail.

Bills for residential service will be rendered monthly.

Bills for commercial and industrial service may be rendered weekly, semi-monthly, or monthly at the option of the city.

Water bills must be paid on or before the discount date shown thereon to obtain the net rate; otherwise, the gross rate shall apply. Failure to receive a bill will not release a customer from payment obligation, nor extend the discount date.

In the event a bill is not paid on or before five (5) days after the discount date, a written notice shall be mailed to the customer. The notice shall advise the customer that his service may be discontinued without further notice if the bill is not paid on or before ten (10) days after the discount date. The city shall not be liable for any damages resulting from discontinuing service under the provisions of this section, even though payment of the bill is made at any time on the day that service is actually discontinued.

Should the final date of payment of bill at the net rate fall on Sunday or a holiday, the business day next following the final date will be the last day to obtain the net rate. A net remittance received by mail after the time limit for payment at the net rate will be accepted by the city if the envelope is date-stamped on or before the final date for payment of the net amount.

If a meter fails to register properly, or if a meter is removed to be tested or repaired, or if water is received other then through a meter, the city reserves the right to render an estimated bill based on the best information available. (1988 Code, § 13-115)

18-116. Discontinuance or refusal of service. The city manager may discontinue service or refuse to connect service for a violation of, or a failure to comply with, any of the following:

(1) These rules and regulations.

(2) The customer's application for service.

(3) The customer's contract for service.

This right to discontinue service shall apply to all service received through a single connection or service, even though more than one customer or tenant is furnished service therefrom, and even though the delinquency or violation is limited to only one such customer or tenant.

The city shall have the right to refuse to render service to any applicant whenever the applicant or any member of the household, company or firm to which such service is to be furnished is in default in the payment of any obligation to the city or has theretofore had his/her service disconnected because of a violation of the rules and regulations of the board.

Discontinuance of service by the city for any cause stated in these rules and regulations shall not release the customer from liability for service already received or from liability for payments that thereafter become due under other provisions of the customer's contract.

No service shall be discontinued unless the customer is given notice in writing at least ten (10) days prior to the date of such impending action and the reason therefor. The city representative shall not be responsible for giving notice to any residence where service has been discontinued within the previous four (4) years. Termination of utility service will not be made on any day preceding a day when the Dayton Municipal Building is scheduled to be closed.

In regard to the discontinuance of service the following exceptions will be made: (1) Proven hardship cases, i.e., death in immediate family, sickness, etc. (2) accounts in question as to the validity of amount of bill, (3) accounts that are extremely abnormal for reasons such as water leaks, bad weather, equipment malfunctions, providing substantial payments are being made on bill, (4) accounts that have been approved for payment by the governmental agencies or charitable organizations, (5) operation of a Life Support System, but an Electricity Limiting Device shall be installed and remain in place until all outstanding bills are paid.

The customer shall also be notified of his right to a hearing prior to disconnection if he disputes the reason therefor and requests the hearing by the date specified in the notice. When a hearing is requested, the customer may have a representative at the hearing and may testify and present witnesses on his behalf. Also, when a hearing has been requested, the customer's service shall not be terminated until a final decision is reached by the hearing officer and the customer is notified of that decision. (1988 Code, § 13-116)

18-117. <u>Reconnection charge</u>. Whenever service has been disconnected as provided for above, a reconnection charge of thirty dollars ($30.00) for requests made before 4:00 o'clock P.M. EST shall be collected by the city before service is restored to any customer. Whenever service has been disconnected as provided for above, a reconnection charge of sixty dollars ($60.00) for requests made after 4:00 o'clock P.M. EST shall be collected by the city before service is restored to any customer. The city may refuse to connect or may disconnect

service for the violation of any of its ordinances, rules and regulations. (1988 Code, § 13-117, as replaced by Ord. #622, Feb. 2020 ***Ch7_01-04-21***)

18-118. 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 the 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 service to be discontinued may be required; and the city may continue the service for a period of not to exceed ten (10) days after receipt of the written notice, during which time the customer shall be responsible for all charges for such service. If the city should continue service after the 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, or thereafter, the occupant of premises to which service has been ordered discontinued by a customer other than the 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. (1988 Code, § 13-118)

18-119. 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. (1988 Code, § 13-119)

18-120. Inspections. The city may 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 meeting standards fixed by city ordinances regulating building and plumbing, or not in accordance 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 the inspection or rejection been made. (1988 Code, § 13-120)

18-121. 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 properly to care for its, the cost of necessary repairs or replacements shall be paid by the customer. (1988 Code, § 13-121)

18-122. Customer's responsibility for violations. Where the city furnishes water service to a customer, the customer shall be responsible for all violations of these rules and regulations that occur on the premises so served. Personal participation by the customer in any such violations shall not be necessary to impose personal responsibility on him. (1988 Code, § 13-122)

18-123. 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. (1988 Code, § 13-123)

18-124. 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, fire plugs, and valves without permission or authority from the city. (1988 Code, § 13-124)

18-125. Limited use of unmetered private fire lines. Where a private fire line is not metered, no water shall be used from the 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 the service shall immediately give the city a written notice of the occurrence. (1988 Code, § 13-125)

18-126. Damages to property due to water pressure. The city will use reasonable diligence in supplying water but shall not be liable to any customer for the breach of contract in the event of or for loss, injury or damages to persons or property resulting from the interruption in service, delay in restoration, mechanical failure, external forces, acts of God, excessive or inadequate pressure, or otherwise unsatisfactory service, whether or not caused by negligence (caused to his plumbing or property by high pressure, low pressure, or fluctuation in pressure in the city's water mains). (1988 Code, § 13-126)

18-127. 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 it off.

(2) The city has attempted to cut off a service but it 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. (1988 Code, § 13-127)

18-128. 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 a customer may use. (1988 Code, § 13-128)

18-129. Interruption of service. The city will endeavor to furnish continuous water 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. (1988 Code, § 13-129)

18-130. Required connection. If a customer within the city is accessible to a water main, then the customer is required to connect to the line and comply with all rules and regulations of this chapter. The requirement of this section shall be applied prospectively from and after the effective date of the provisions of this chapter. (1988 Code, § 13-130)

18-131. Payments to general fund. The water department shall pay to the general fund each year an amount equal to a percentage of the equity or investment the general government of the City of Dayton has in the water

department.[1] The percentage shall be set by ordinance or resolutions. (1988 Code, § 13-131)

18-132. Service charge for returned check and disconnection. A service charge of twenty-five dollars ($25.00) shall be charged for all returned checks. Service shall be terminated if the check is not paid within ten (10) days after appropriate notification to the customer that the check has returned at the address of the service. If service is terminated, the same reconnection fee shall apply as those of non-payment termination. (1988 Code, § 13-132, as replaced by Ord. #622, Feb. 2020 ***Ch7_01-04-21***)

18-133. Dispute of bill. In case of a disputed bill, the customer may request in writing a hearing within fifteen (15) days from date of receipt of bill before the city manager or any other officer duly appointed by the Dayton City Council. The hearing officer will hear all evidence and complaints and render a written decision. The hearing shall be scheduled as soon as possible but not later than thirty (30) days from the date of the written request. If the customer is dissatisfied with the decision of the hearing officer an appeal may be perfected within ten (10) days from the date of the rendering of the written decision with the appeal to be directed to the city council who shall hear the evidence and render a decision. The customer's service will not be terminated until an appropriate decision is reached as herein stated. (1988 Code, § 13-133)

18-134. Fluoridation of water supply. The water supply provided by the water department shall be fluoridated at the cost of the water department. (1988 Code, § 8-102)

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[1]State law reference
See Tennessee Code Annotated, § 7-34-115.

CHAPTER 2

SEWERS[1]

SECTION

18-201. Use of system regulated. All persons using, desiring, or required to use, the public sanitary sewer system shall comply with the provisions of this chapter and with such written rules and regulations as may be prescribed by the superintendent of the sewer system when the rules and regulations have been approved by the board of commissioners. (1988 Code, § 13-201)

18-202. Permit and supervision required for connecting to system. No premises shall be connected to the public sanitary sewer system without a permit from the building inspector. Also all connections to the system must be made under the direct supervision of the superintendent of the sewer system or someone designated by him. (1988 Code, § 13-202)

18-203. Installation of lateral lines, etc. When connections to the public sanitary sewer system are required and/or permitted, the city shall be responsible for installing all the necessary lateral lines and facilities from the sewer main to the property line unless there is a written contract between the board of commissioners and the property owner to the contrary. All necessary installations within the property lines shall be made by the owner. (1988 Code, § 13-203)

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[1]Municipal code reference
Building, utility and housing codes: title 12.

18-204. <u>Schedule of rates</u>. The following graduated charges shall be made for sewer service furnished by the city to its customers. Except as provided for below, payment for sewer service shall be based upon the amount of water purchased from the city by the customers. Payments shall b e based on the nearest multiple of one thousand (1,000) gallons and shall be at the following rates:

	INSIDE CITY LIMITS					OUTSIDE CITY LIMITS				
RESIDENTIAL	Current Rate					Current Rate				
	6/30/2021	7/1/2021	7/1/2022	7/1/2023	7/1/2024	6/30/2021	7/1/2021	7/1/2022	7/1/2023	7/1/2924
MINIMUM CHARGE (First 1,000 Gallons)	19.25	20.00	20.80	21.60	22.45	28.86	30.00	31.20	32.45	33.75
Per 1,000 gallons of Metered Water	9.30	9.70	10.10	10.50	10.90	13.95	14.50	15.05	15.65	16.25
COMMERCIAL	Current Rate					Current Rate				
	6/30/2021	7/1/2021	7/1/2022	7/1/2023	7/1/2024	6/30/2021	7/1/2021	7/1/2022	7/1/2023	7/1/2024
MINIMUM CHARGE (First 1,000 gallons)	28.86	30.00	31.20	32.45	33.75	43.29	45.00	46.80	48.65	50.60
Per 1,000 gallons of Metered Water	9.30	9.70	10.10	10.50	10.90	13.95	14.50	15.05	15.65	16.25
INDUSTRIAL RATE 1	Current Rate					Current Rate				
	6/30/21	7/1/2021	7/1/2022	7/1/2023	7/1/2024	6/30/2021	7/1/2021	7/1/2022	7/1/2023	7/1/2024
MINIMUM CHARGE (First 1,000 Gallons)	38.49	40.00	41.60	43.25	44.95	57.73	60.00	62.40	64.90	67.50
Per 1,000 gallons of Metered Water	9.30	9.70	10.10	10.50	10.90	13.95	14.50	15.05	15.65	16.25

The rate listed above for customers residing outside the city limits is fifty percent (50%) higher than the rate for customers residing within the city limits.

Customers who have a course of water other than the city water system and who discharge wastewater into the city sewer system shall be billed at the above rates based on the actual measured flow into the sewer system. The measurement shall be by parshall flume or other measuring device approved in writing by the city manager which shall be installed and maintained by and at the expense of the customer in a continuously accessible place.

Customers who do not return to the sewer system all of the water that they obtain from the city water system may install and maintain, at their expense, a parshall flume or other measuring device approved in writing in advance by the city manager. After installation of the metering device, the customer shall be billed at the above rates based on the actual measured flow into the sewer system. Unless the customer installs and maintains the approved metering device, it will be presumed he is returning to the sewer all of the water he purchased.

INSIDE CITY LIMITS

INDUSTRIAL RATE 2	Current Rate				
	6/30/21	7/1/2021	7/1/2022	7/1/2023	7/1/2024
MINIMUM CHARGE (First 1,000 gallons)	57.74	60.00	62.40	64.90	67.50
Per 1,000 gallons of Metered Water	3.50	3/65	3/80	3.95	4.10

Industrial Rate 2 Guidelines/Requirements:
1. Must purchase a minimum of 100,000 gallons of water per day
2. Must have only discharge point to the city's sewer system
3. Must have an approved sampling/metering station on their discharge
4. Must be located within the corporate limits of the City of Dayton (1988 Code, § 13-204, as replaced by Ord. #490, June 2007, Ord. #560, June 2013, Ord. #582, June 2016, Ord. #596, June 2017, Ord. #611, June 2018 ***Ch7_01-04-21***, Ord. #618, July 2019 ***Ch7_01-04-21***, and Ord. #642, June 2021 ***Ch8_12-04-23***)

18-205. Payments to general fund. The sewer department shall pay to the general fund each year an amount equal to a percentage of the equity or investment the general government of the City of Dayton has in the sewer department.[1] The percentage shall be set by ordinance or resolution. (1988 Code, § 13-205)

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[1]State law reference
Tennessee Code Annotated, § 7-34-115.

18-206. Persons using septic tanks; pumping charges; relinquishing septic tank pumping service. Persons whose property is not available to a public sanitary sewer but who pay monthly sewer charges for the service of having their septic tanks pumped as needed may be relieved of sewer changes and not be eligible to have their septic tanks pumped under the following conditions:

(1) That any non-commercial resident shall be allowed to withdraw from the sewer charge when said non-commercial person is served by an approved septic tank system, if said person notifies the city in writing upon the form provided for by the city thirty (30) days prior to his/her billing cycle for that location.

(2) That if said non-commercial resident elects to withdraw from the sanitary sewer charge, he/she will not be able to be reinstated for a period of one (1) year from the date of withdrawal.

(3) That if said non-commercial resident has withdrawn from the sanitary sewer charge and wishes to be reinstated, then this reinstatement shall be for a period of one (1) year from the date of reinstatement.

(4) If the resident is not the owner of the location where the charge applies then his/her withdrawal or reinstatement shall follow said resident if he/she moves to a location within the city limits of Dayton, Tennessee.

(5) If the city installs a sanitary sewer in the future in an area that is not now served by the sanitary sewer system, property owners to whom the sewer is available shall connect to it and shall be subject to all sewer service charges.[1]

(6) Nothing in this section shall be construed to limit the prohibition upon the construction of private sewage disposal systems within the city limits unless and until a certificate of non-availability is obtained under § 18-321 of this municipal code of ordinances. (1988 Code, § 13-206)

18-207. Connection charges, gravity flow sewer line. Service lines will be laid by the city from the sewer main to the property line at the expense of the applicant for service. The location of these lines will be determined by the city. If for any reason the city cannot lay the sewer line and additional work by a contractor is required (i.e. highway bore, etc.), the applicant shall pay for the cost of the contractor.

(1) If a sewer tap is already present: (inside or outside city limits):

(a) Residential connection fee will be four hundred dollars ($400.00) for gravity flow sewer line.

(b) Multi-unit residential connection fee will be four hundred dollars ($400.00) plus one hundred fifty dollars ($150.00) for each additional unit to be served by the tap for a gravity flow sewer line.

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[1]State law reference

Sewer connection requirements: Tennessee Code Annotated, § 7-35-201.

(2) If no sewer tap is present: (inside or outside city limits):

(a) Residential connection fee will be one thousand dollars ($1,000.00) for up to a four inch (4") tap on gravity flow sewer line.

(b) Multi-unit residential connection fee will be one thousand dollars ($1,000.00) plus one hundred fifty dollars ($150.00) for each unit to be served by the same tap, for up to a four inch (4") tap on gravity flow sewer line. A six inch (6") tap will be one thousand two hundred fifty dollars ($1,250.00) plus one hundred fifty ($150.00) for each unit served by tap. An eight inch (8") tap will be one thousand five hundred dollars ($1,500.00) plus one hundred fifty dollars ($150.00) for each unit served by tap.

The City of Dayton shall not allow any service laterals to be smaller than four inch (4") pipe on any connections from the dwelling.

(3) Commercial and industrial taps for gravity flow sewer lines will be based on the size of the water meter as follows: (inside or outside city limits)

3/4" - $1,200.00
1" - $1,800.00
2" - $2,400.00

For sewer taps for water meters larger than two inches (2"), the fees will be quoted by the Sewer Department Superintendent for the City of Dayton, Tennessee. (1988 Code § 13-207, as replaced by Ord. #534, Aug. 2010, Ord. #537, Oct. 2010, Ord. #587, Nov. 2016, and Ord. #671, August 2022 ***Ch8_12-04-23***)

18-208. <u>Miscellaneous sewer charges</u>. The following miscellaneous charges shall be established for customers of the city to be charged to waste haulers. The rates are as follows:

Fee schedule for waste haulers:

1 gallon to 2,500 gallons of hauled waste:	$60.00
2,501 gallons to 3,500 gallons of hauled waste:	$100.00
Over 3,500 gallons:	$.035/gallon
Application fee:	$100.00
Annual permit renewal fee:	$60.00

(as added by Ord. #643, Aug. 2021 ***Ch8_12-04-23***)

18-209. <u>Sewer development fees</u>. (1) ln addition to other applicable charges contained in this chapter, there is established a sewer development fee, as set forth herein, to be paid by new sanitary sewer customers connecting to the sanitary sewer system as of November 1, 2022. Such fee shall reflect the following:

(a) The actual cost to provide service to such new customers connecting to the sanitary sewer system seeking an approved sewer connection for subdivisions, land developments, new buildings, and redevelopments of land or buildings served by the city sanitary sewer system or where the facility served requires modification of or enlargement of the existing sewers, whether within or outside the

corporate limits of the city and whether service is by existing or by new facilities to be constructed;

(b) A portion of the capital costs incurred by the city for the construction of wastewater treatment plant facilities and related assets, including prior upgrades and expansions; and

(c) A portion of the capital costs incurred by the city for the construction of the sewage collection and conveyance system including sewer mains, manholes, lift stations, associated appurtenances including prior upgrades and expansions. The sewer development fee shall be payable by the applicant, developer of the subdivision, or developer of industrial, commercial or residential site as set forth herein, upon the execution of the subdivision contract or the sewer extension contract, or at the time of application for the sewer connection or plumbing permit, as appropriately determined by the Sewer Department Superintendent for the City of Dayton.

(2) Sewer development fees shall be calculated based upon the size of the water meter used for the connection using a trended original cost method defined as the historical cost of the city's assets in present day dollar amounts. Written confirmation of the applicable water meter size from the City of Dayton Water Department must be provided by the applicant or developer prior to payment of the sewer development fee as such payment is required in accordance with § 18-208(1). The sewer development fee shall be assessed, as set forth in this section and the fee schedule adopted by the Sewer Department Superintendent for the City of Dayton:

Meter Size (in inches)	Sewer Development Fee
3/4"	$2,225.00
1"	$3,383.00

(3) The sewer development fee calculation may be reviewed and adjusted from time to time by the City Council for the City of Dayton as determined necessary due to significant changes to the customer makeup of the sanitary sewer system, and in the instance of an extensive capital improvement plan.

(4) No sewer development fee shall be assessed to a person authorized to install a private sewage disposal system pursuant to this title 18, but a sewer development fee may be charged to the developer or property owner when sanitary sewers are available or required pursuant to this chapter or when it is determined that sanitary sewers shall be extended to such development. The city may thereafter require the installation of the sewer and the payment of the sewer development fee. The developer or property owner by applying for and receiving a private sewage disposal permit shall agree to such fee when the sewer is available.

(5) The prior payment of a sewer development fee for any land or building currently served by the sanitary sewer system shall not restrict the

city's ability to assess a sewer development fee in accordance with § 18-208(1) for any proposed redevelopment of such land or building.

(6) A sewer development fee shall be assessed to any development, redevelopment, new building or building addition resulting in the installation of an additional water meter or enlarged water meter. No sewer development fee shall be assessed for water meters dedicated to fire protection or irrigation. (as added by Ord. #672, Sept. 2022 ***Ch8_12-04-23***)

CHAPTER 3

WATER AND SEWER EXTENSIONS OUTSIDE CITY

SECTION

18-301. Introduction. This chapter establishes a policy intended to provide a procedure whereby a developer or individual may extend water and sewer mains outside the city limits and over a period of time be reimbursed in part for these extensions. It is also intended that any prospective buyer shall be notified in advance of the sale that he must pay for a part of the utility extension cost. The developer shall in no instance receive more than 75 percent of his total investment, and all taps or extensions by subsequent developers will pay for the privilege of connecting or extending such utility as prescribed herein.

"Developer" and "individual" are the same for purposes of this chapter.

This chapter applies to both water and sewer extensions. The reimbursement formula shall apply to eight (8) inch sewers and larger and 6 inch water mains and larger.

All plans and plats shall be submitted to the planning commission and must comply with all of their rules and regulations as they apply to plan and plan approval.

All connections to the city water system that are extended on public property or in a dedicated easement shall meet all of the requirements of the city. All other lines will be considered as private lines for individual use and from which the resale of water will not be permitted. (1988 Code, § 13-301)

18-302. Prospective buyer notification. The developer shall furnish a notice in writing in advance of the sale of any lot or house to the prospective buyer, stating that the prospective buyer after the purchase must pay the tap and meter setting fee normally charged by the city and in addition, a predetermined percentage of the cost of the water main fronting on the property purchased. Failure of the developer to obtain and make available to the city a copy of this notice signed by both the prospective buyer and the developer forfeits his claim for any reimbursement of the water main construction refund for that property. (1988 Code, § 13-302)

18-303. Engineering. All water and sewer main extensions shall be designed by a registered professional engineer and plans shall meet approval of the Tennessee Department of Health and Environment. Such plans shall be submitted to the planning commission for approval in conjunction with the subdivision plat. Final plans shall be engineering design drawings on standard plan-profile sheet to a scale of not less than 1" - 100' in plan and 1" - 10' on profile. Contract documents and specifications shall be furnished in a form suitable for execution by the city. (1988 Code, § 13-303)

18-304. Inspection. The engineer shall furnish a qualified construction inspector for all main constructions. All water mains shall be pressure tested to their design capacity and all sewer mains shall be air tested. All house sewers shall be air tested or tested by ex-filtration. Sewers that are tested before backfilling must be hand-backfilled with select material 6-inches above the top of the pipe. (1988 Code, § 13-304)

18-305. Easements. All water mains shall be constructed within a public right of way or in an easement that has been dedicated to the city. Easements shall be a minimum of 10 feet wide. Easements within a subdivision shall be shown and identified on the dedication plat. All other easements shall be shown on the contract drawings and with a legal description which shall be recorded by the developer at the time the plat is recorded. (1988 Code, § 13-305)

18-306. Service lines. The city will furnish, set, and maintain all residential meters for a fixed fee as prescribed by the city. Within the subdivisions the developer shall make the tap and extend a 1 inch type "K" copper to a common property. The service line shall be protected and the location shown on the "as built" drawings. (1988 Code, § 13-306)

18-307. Fire hydrants. At the discretion of the city, the developer shall be required to install fire hydrants and a 6-inch gate valve at such location to satisfy the current fire demand rate of the city. Generally, fire hydrants will be required when it is determined that the area to be developed will be annexed by the city within a reasonable period of time. When the city determines that fire hydrants are not required then the developer shall install at locations specified by the city a 6-inch Tee and a 6-inch gate valve for a future hydrant installation.

When hydrants are required, the developer may add this cost to the unit cost of a 6-inch main as described in the section under reimbursements and pro-rate that cost equally to the prospective buyers within the subdivision or along the transmission main. (1988 Code, § 13-307)

18-308. Project cost. The developer shall place on deposit with the city the estimated project cost as part of the application for a construction permit. The money shall be placed in a construction account from which payments shall be made to the contractor. The city shall make partial payments to the contractor based on estimates furnished and approved by the engineer. Final payment shall be made within 30 days after the following requirements have been met:

(1) All construction work is completed.

(2) All cleanup and all surface repairs are completed.

(3) One set of reproducible "as built" drawings of the project has been certified by the engineer.

(4) A letter is received from the engineer stating that the project is completed and meets all of the requirements of the plans and specifications including all required tests and is recommended for acceptance by the city.

The balance of any money remaining on deposit after final payment shall be returned to the owner within 10 days after the above requirements for final payment to the contractor have been met.

Subject to the completion of all requirements of the city, the water system improvement shall become the property of the city.

The date of acceptance as recommended by the engineer shall establish the beginning time for the reimbursement schedule. (1988 Code, § 13-308)

18-309. Reimbursement formula inside subdivisions. Inside subdivisions, the developer shall in no instance receive more than 75 percent of the total project cost. The developer may recover from each lot sold the pro-rated share of project cost to each lot. (Example--Gross cost to developer $10,000. Development has 100 lots. Each lot would pay $100.00). (1988 Code, § 13-309)

18-310. Reimbursement outside subdivisions. That part of the main from the existing city main to the boundary of the subdivision (transmission main) shall be subject to reimbursement as abutting property owners make connections. The reimbursement shall in no instance be more than 75 percent of the total project cost. The abutting property owners shall pay one-half the unit cost of the main for a distance which shall be established as the average width of a lot within the subdivision to be served by the main. The maximum footage for which an abutting property owner can be assessed is 200 feet.

Each additional connection shall be assessed in the same manner. Multi-family units shall pay a like amount for each living unit.

A connection other than a service connection shall meet all of the requirements of the city and the original developer shall be reimbursed by the following method:

At the point of connection, the second developer shall pay the first developer one-half the original contract cost of the unit price per foot of transmission main from the point of connection to the original city main. The second developer does not pay for any part of the main beyond the point of connection for his development.

After the developer has been reimbursed the full amount allowed for a transmission main because of full development along the transmission main and or main connections by other developers, then additional connection or extensions fees shall be paid to the city. (1988 Code, § 13-310)

18-311. Reimbursement time limit. The period of time for which a developer may be reimbursed for any subdivision will be a maximum of ten (10) years. The subdivision may be developed in sections and each section as it is developed will establish its own timetable but the maximum allowable time shall be ten (10) years. (1988 Code, § 13-311)

CHAPTER 4

SUPPLEMENTARY SEWER REGULATIONS[1]

SECTION

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[1]Appendix A (Enforcement Response Plan Guide Table), to Ord. #568 which creates this chapter, is of record in the recorders office.

18-401. Purpose and policy. This chapter sets forth uniform requirements for users of the publicly owned treatment works for the City of Dayton and enables the City of Dayton to comply with all applicable state and federal laws, including the state pretreatment requirements (Tennessee Rule 0400-40-14), the Clean Water Act (33 United States Code [U.S.C.] § 1251 et seq.) and the general pretreatment regulations (title 40 of the Code of Federal Regulations [CFR] part 403). The objectives of this chapter are:

(1) To prevent the introduction of pollutants into the publicly owned treatment works that will interfere with its operation or contaminate the resulting sludge;

(2) To prevent the introduction of pollutants into the publicly owned treatment works that will pass through the publicly owned treatment works, inadequately treated, into receiving waters, or the atmosphere or otherwise be incompatible with the publicly owned treatment works;

(3) To protect both publicly owned treatment works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;

(4) To promote reuse and recycling of industrial wastewater and sludge from the publicly owned treatment works;

(5) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the publicly owned treatment works; and

(6) To enable the City of Dayton to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other federal or state laws to which the publicly owned treatment works is subject.

This chapter shall apply to all users of the publicly owned treatment works. The ordinance authorizes the issuance of individual wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

This chapter shall apply to the City of Dayton and to the persons outside the city who are, by contract or agreement with the city, users of the City of Dayton's POTW. (1988 Code, § 13-601, as replaced by Ord. #568, June 2014)

18-402. Administration. Except as otherwise provided herein, the superintendent of the sewer department for the City of Dayton shall administer, implement, and enforce the provisions of this chapter. Any powers granted to or duties imposed upon the superintendent may be delegated by the superintendent to a duly authorized city employee. (1988 Code, § 13-602, as replaced by Ord. #568, June 2014)

18-403. Abbreviations. The following abbreviations, when used in this chapter, shall have the designated meanings:

BOD - Biochemical Oxygen Demand
BMP - Best Management Practice
BMR - Baseline Monitoring Report
CFR - Code of Federal Regulations
CIU - Categorical Industrial User
COD - Chemical Oxygen Demand
EPA - U.S. Environmental Protection Agency
gpd - gallons per day
IU - Industrial User
l - Liter
mg- milligrams
mg/l - milligrams per liter
NPDES - National Pollutant Discharge Elimination System
NSCIU - Non-Significant Categorical Industrial User {optional}
POTW - Publicly Owned Treatment Works
RCRA - Resource Conservation and Recovery Act
SIC - Standard Industrial Classification

SIU - Significant Industrial User
SNC - Significant Noncompliance
SWDA - Solid Waste Disposal Act, 42 U.S.C. 6901, et seq.
TSS - Total Suspended Solids
U.S.C. - United States Code (1988 Code, § 13-603, as replaced by Ord. #568, June 2014)

18-404. 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) "Administrator." An authorized representative empowered to manage, implement and enforce business or public affairs.

(3) "Approval authority." The Tennessee Division of Water Resources Director or his/her representative(s).

(4) "Authorized or duly authorized representative of the user." (a) If the user is a corporation:

(i) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

(ii) The manager of one (1) or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(b) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(c) If the user is a federal, state, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(d) The individuals described in paragraphs (a) through (c), above, may designate a duly authorized representative if the

authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the city.

(5) "Biochemical Oxygen Demand" or "BOD." The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at twenty degrees centigrade (20° C), usually expressed as a concentration (e.g., mg/l).

(6) "Best Management Practices" or "BMPs" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in § 18-405(1) and (2) [Tennessee Rule 0400-40-14-.05(1)(a) and (2)]. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

(7) "Building sewer." A sewer conveying wastewater from the premises of a user to the POTW.

(8) "Categorical pretreatment standard" or "categorical standard." Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. § 1317) that apply to a specific category of users and that appear in 40 CFR chapter 1, subchapter N, parts 405-471.

(9) "Category 1 user." A commercial or industrial discharger of wastewater into the City of Dayton wastewater collection system that is required by the sewer use ordinance, or other ordinance or regulation of the City of Dayton, to install and maintain a gravity-type separator, interceptor, or other such device for the removal of oil, grease, sand, grit, glass, entrails, or other such material likely to create or contribute to a blockage of the wastewater collection system or otherwise interfere with the operation of the sanitary sewerage system or the WWTP. Such user shall maintain records of:

(a) The maintenance of their pretreatment system, and

(b) The disposal of material removed from the wastewater stream.

(10) "Category II user." A commercial or industrial discharger of wastewater into the City of Dayton wastewater collection system that is required by the sewer use ordinance, or other ordinance or regulation of the City of Dayton, to install and maintain a basket-type or bar-type separator/interceptor for the removal of strings, buttons, rags, glass, or other solids likely to create or contribute to a blockage of the wastewater collection system or otherwise interfere with the operation of the sanitary sewerage system or the WWTP.

(11) "Categorical industrial user." An industrial user subject to a categorical pretreatment standard or categorical standard.

(12) "City." The City of Dayton, Tennessee.

(13) "Chemical Oxygen Demand" or "COD." A measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.

(14) "Compatible pollutant." Biochemical oxygen demand, suspended solids, pH and fecal coliform bacteria; plus any additional pollutants the publicly-owned treatment works is designed to treat and, in fact, does remove or reduce such pollutants to the degree required by the POTW's NPDES permit.

(15) "Control authority." The City of Dayton.

(16) "Cooling water." The water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

(17) "Daily maximum." The arithmetic average of all effluent samples for a pollutant (except pH) collected during a calendar day.

(18) "Daily maximum limit." The maximum allowable discharge limit of a pollutant during a calendar day. Where daily maximum limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where daily maximum limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

(19) "Direct discharge." The discharge of treated or untreated wastewater directly to the waters of the State of Tennessee.

(20) "Environmental protection agency or EPA." The U.S. Environmental Protection Agency or, where appropriate, the regional water management division director, the regional administrator, or other duly authorized official of said agency.

(21) "Existing source." Any source of discharge that is not a "new source."

(22) "Grab sample." A sample that is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.

(23) "Holding tank waste." Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

(24) "Incompatible pollutant." All pollutants other than compatible pollutants as defined in § 18-404(14) of this chapter.

(25) "Indirect discharge or discharge." The introduction of pollutants into the POTW from any nondomestic source (including holding tank waste discharged into the system).

(26) "Industrial user." A commercial or industrial discharger of wastewater into the City of Dayton wastewater collection system that is required by the sewer use ordinance or other ordinance or regulations of the

City of Dayton, the Tennessee Department of Environment and Conservation, or the U.S. Environmental Protection Agency to be issued an industrial user permit regulating their discharge to the WWTP. Such users may be customers of the City of Dayton or any other utility discharging into the WWTP. Such users may or may not be required to install sewage pretreatment facilities but are subject to periodic monitoring and/or inspection. A source of indirect discharge which does not constitute a "discharge of pollutants" under regulations issued pursuant to § 402 of the Act (33 U.S.C. 1342).

(27) "Instantaneous limit." The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

(28) "Interference." A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; or exceeds the design capacity of the treatment works or the collection system.

(29) "Local limit." Specific discharge limits developed and enforced by the City of Dayton upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in Tennessee Rule 0400-40-14-.05(1)(a) and (2).

(30) "Medical waste." Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

(31) "Monthly average." The sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

(32) "Monthly average limit." The highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

(33) "National categorical pretreatment standard." Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with § 307(b) and (c) of the Act (33 U.S.C. § 1347) which applies to a specific category of industrial users.

(34) "New source."

(a) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under § 307(c) of the Act that will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

(i) The building, structure, facility, or installation is constructed at a site at which no other source is located; or

(ii) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(iii) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

(b) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of paragraphs (a)(ii) or (a)(iii) above but otherwise alters, replaces, or adds to existing process or production equipment.

(c) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

(i) Begun, or caused to begin, as part of a continuous onsite construction program:

(A) Any placement, assembly, or installation of facilities or equipment; or

(B) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(ii) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

(35) "National Pollutant Discharge Elimination System or NPDES permit." A permit issued to a POTW pursuant to § 402 of the Act (33 U.S.C. 1342).

(36) "Noncontact cooling water." Water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

(37) "Pass through." A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction

with a discharge or discharges from other sources, is a cause of a violation of any requirement of the city's NPDES permit, including an increase in the magnitude or duration of a violation.

(38) "Person." Any and all persons, including individuals, firms, partnerships, associations, public or private institutions, state and federal agencies, municipalities or political subdivisions, or officers thereof, departments, agencies, or instrumentalities, or public or private corporations or officers thereof, organized or existing under the laws of this state or any state or country.

(39) "pH." A measure of the acidity or alkalinity of a solution, expressed in standard units.

(40) "Pollution." The manmade or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

(41) "Pollutant." Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

(42) "Pretreatment." The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

(43) "Pretreatment requirements." Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

(44) "Pretreatment standards" or "standards." Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.

(45) "Prohibited discharge standards" or "prohibited discharges." Absolute prohibitions against the discharge of certain substances; these prohibitions appear in § 18-405 of this chapter.

(46) "Publicly-Owned Treatment Works (POTW)." A treatment works as defined by § 212 of the Act (33 U.S.C. 1292) which is owned in this instance by the city. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances, which convey wastewater to a treatment plant. For the purpose of this chapter, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the City of

Dayton who are, by contract or agreement with the City of Dayton, users of the city's POTW.

(47) "POTW treatment plant." That portion of the POTW designed to provide treatment to wastewater.

(48) "Septic tank waste." Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers and septic tanks.

(49) "Sewage." Human excrement and gray water (household showers, dishwashing operations, etc.).

(50) "Shall" is mandatory; "may" is permissive.

(51) "Significant Industrial User (SIU)." A significant industrial user is:

(a) An industrial user subject to categorical pretreatment standards; or

(b) An industrial user that:

(i) Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);

(ii) Contributes a process wastestream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

(iii) Is designated as such by the city on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

(52) "Slug load" or "slug discharge." Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in § 18-405 of this chapter. A slug discharge is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the POTW's regulations, local limits or permit conditions.

(53) "Slug control plan." A plan to control slug discharges, which shall include, as a minimum,

(a) Description of discharge practices, including non-routine batch discharges;

(b) Description of stored chemicals;

(c) Procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate a discharge prohibition under this chapter, or40 CFR 403.5(b), with procedures for follow-up written notification within five (5) days;

(d) If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas,

handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents) and/or measures and equipment for emergency response.

(54) "State." State of Tennessee.

(55) "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.

(56) "Stormwater." Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

(57) "Superintendent." The person designated by the city to supervise the operation of the POTW and who is charged with certain duties and responsibilities by this chapter, or his duly authorized representative.

(58) "Total suspended solids" or "suspended solids." The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and that is removable by laboratory filtering.

(59) "Toxic pollutant." Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency under the provisions of CWA 307(a) or other Acts.

(60) "Twenty-four (24) hour flow proportional composite sample." A sample consisting of several wastewater portions during a twenty-four (24) hour period in which the portions are proportional to the flow and combine to form a representative sample.

(61) "User." Any person who contributes, causes or permits the contribution of wastewater into the city's POTW.

(62) "Wastewater." Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, together with any groundwater, surface water, and storm water that may be present, whether treated or untreated, which are contributed into or permitted to enter the POTW.

(63) "Wastewater contribution permit." As set forth in § 18-418 et seq. of this chapter.

(64) "Wastewater treatment plant" or "treatment plant." That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

(65) "Waters of the state." All streams, lakes, ponds, marshes, water courses, 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, which are contained within, flow through, or border upon the state or any portion thereof. (1988 Code, § 13-604, as replaced by Ord. #568, June 2014)

18-405. Prohibited discharge standards. (1) General prohibitions. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements.

(2) Specific prohibitions. No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

(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 (2) successive readings of an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent (5%) nor any single reading over ten percent (10%) of the Lower Explosive Limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides, waste streams with a closed cup flash point of less than one hundred forty degrees Fahrenheit (140° F) or sixty degrees Celsius (60° C) using the test methods specified in 40 CFR 261.21, and any other substances which the city, the state, or EPA has notified the user is a fire hazard to the system.

(b) Wastewater having a pH less than five (5) or higher than twelve (12), or otherwise causing corrosive structural damage to the POTW or equipment;

(c) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the POTW such as, but not limited to, grease, garbage with particles greater than one-half inch (1/2") in any dimension, waste from animal slaughter, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud or glass grinding or polishing wastes, or disposable wipes;

(d) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW. In no case shall a slug load have a flow rate or contain concentration or qualities of pollutants that exceed for any time period longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration, quantities, or flow during normal operation.

(e) Wastewater having a temperature greater than one hundred forty degrees Fahrenheit (140° F) (sixty degrees Celsius (60° C), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed one hundred four degrees Fahrenheit (104° F) (forty degrees Celsius (40° C));

(f) Petroleum oil, non biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;

(g) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;

(h) Trucked or hauled pollutants, except at discharge points designated by the superintendent in accordance with § 18-414 of this chapter;

(i) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;

(j) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the city's NPDES permit;

(k) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the City of Dayton in compliance with applicable state or federal regulations.

(l) Any stormwater (flow occurring during or following any form of natural precipitation and resulting therefrom), surface water, or unpolluted industrial process waters to any sanitary sewer. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the Tennessee Department of Environment and Conservation. Uncontaminated industrial cooling water or unpolluted process waters may be discharged on approval of the Tennessee Department of Environment and Conservation to a storm sewer or natural outlet.

(m) Sludges, screenings, or other residues from the pretreatment of industrial wastes;

(n) Medical wastes, except as specifically authorized by the superintendent in an individual wastewater discharge permit;

(o) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail toxicity test;

(p) Detergents, surface-active agents, or other substances that might cause excessive foaming in the POTW;

(q) Any waters or wastes containing animal or vegetable fats, wax, grease, or oil, whether emulsified or not, which cause accumulations of solidified fat in pipes, lift stations and pumping equipment, or interfere at the treatment plant;

(r) 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 process where the POTW is pursuing a reuse and reclamation program. In no case, shall a substance discharged to the POTW cause the POTW to be in non-compliance with sludge use or disposal criteria, guidelines or regulations affecting sludge use or disposal development 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.

(s) Any substance which will cause the POTW to violate its NPDES and/or state disposal system permit or the receiving water quality standards.

(t) Any discharges from a user that will cause a pass-through of pollutants from the user through the POTW to the receiving stream.

(u) Any wastewater which causes a hazard to human life or creates a public nuisance.

Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW. (1988 Code, § 13-605, as replaced by Ord. #568, June 2014)

18-406. **National categorical pretreatment standards**. Users must comply with the categorical pretreatment standards found at 40 CFR chapter I, subchapter N, parts 405 - 471. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the superintendent shall impose an alternate limit in accordance with Tennessee Rule 0400-40-14-.06(5). (1988 Code, § 13-606, as replaced by Ord. #568, June 2014)

18-407. **State pretreatment standards**. Users must comply with the State of Tennessee Pretreatment Requirements (Tennessee Rule 0400-40-14). State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this chapter. (1988 Code, § 13-607, as replaced by Ord. #568, June 2014)

18-408. **Local limits**. (1) The superintendent is authorized to establish local limits pursuant to Tennessee Rule 0400-40-14-.05(3).

(2) The following pollutant limits are established to protect against pass through and interference. No person or user shall discharge wastewater containing in excess of the following standards. Dilution of any wastewater discharge for the purpose of meeting these standards shall be considered in violation of this chapter.

Pollutant	Daily Average Maximum Concentration (mg/l)	Instantaneous Maximum Concentration (mg/l) Grab Sample
Cadmium	0.211	0.422
Chromium, Total	1.789	3.578
Chromium, III	Report Only	Report Only
Chromium, VI	Report Only	Report Only
Copper	1.632	3.264
Lead	0.696	1.392
Nickel	1.789	3.578
Mercury	0.012	0.024
Silver	0.182	0.364
Zinc	0.724	1.448
Phenols, Total	3.040	6.080
Benzene	0.092	0.184
Cyanide	0 .712	1.424
Toluene	1.551	3.102
1, 1, 1, Trichloroethane	1.817	3.634
Ethylbenzene	0.288	0.576
Carbon Tetrachloride	10.313	20.626
Chloroform	1.536	3.072
Tetrachloroethylene	1.008	2.016
Trichloroethylene	0.725	1.450

Pollutant	Daily Average Maximum Concentration (mg/l)	Instantaneous Maximum Concentration (mg/l) Grab Sample
1, 2 trans Dichloroethylene	0.051	0.102
Methylene Chloride	0.699	1.398
Naphthalene	0.059	0.118
Phthalates, Total*	0.401	0.802

*Total Phthalates are the sum of
Bis (2-ethylhexy) phthalate
Butyl benzylphthalate
Di-n-butylphthalate
Diethyl phthalate

No person or user shall discharge any waters or wastes which cause the wastewater arriving at the treatment facility to exceed any of the maximum concentration limits as follows:

Pollutant	Maximum Concentration (mg/l)
Cadmium	0.033
Chromium, Total	0.250
Copper	0.260
Lead	0.100
Mercury	0.002
Nickel	0.250
Silver	0.029
Zinc	0.290
Phenols, Total	0.455
Benzene	0.013
Cyanide	0.100

Pollutant	Maximum Concentration (mg/l)
Toluene	0.214
1, 1, 1, Trichloroethane	0.250
Ethyl Benzene	0.040
Carbon Tetrachloride	1.500
Chloroform	0.224
Tetrachloroethylene	0.139
Trichloroethylene	0.100
1, 2 trans Dichloroethylene	0.008
Methylene Chloride	0.096
Naphthalene	0.013
Phthalates, Total*	0.170

*Total Phthalates are the sum of
Bis (2-ethylhexy) phthalate
Butyl benzylphthalate
Di-n-butylphthalate
Diethyl phthalate

The superintendent may develop Best Management Practices (BMPs), by ordinance or in individual wastewater discharge permits, to implement local limits and the requirements of § 18-405. (1988 Code, § 13-608, as replaced by Ord. #568, June 2014)

18-409. City's right of revision. The city reserves the right to establish, by ordinance or in individual wastewater discharge permits, more stringent standards or requirements on discharges to the POTW consistent with the purpose of this chapter. (1988 Code, § 13-609, as replaced by Ord. #568, June 2014)

18-410. Dilution. No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The superintendent may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other

cases when the imposition of mass limitations is appropriate. (1988 Code, § 13-610, as replaced by Ord. #568, June 2014)

18-411. Pretreatment facilities. Users shall provide wastewater treatment as necessa1y to comply with this chapter and shall achieve compliance with all categorical pretreatment standards, Local Limits, and the prohibitions set out in § 18-405 of this chapter within the time limitations specified by EPA, the state, or the superintendent, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the superintendent for review, and shall be acceptable to the superintendent before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the city under the provisions of this chapter. (as added by Ord. #568, June 2014)

18-412. Wastewater pretreatment devices for commercial or industrial users. (1) Requirements for devices. Grease, oil, sand trap collectors or separators shall be installed and maintained when they are necessary for the proper handling of harmful substances. Such separators shall be of a type and capacity approved by the City of Dayton and shall be located as to be readily and easily accessible for cleaning, pumping and inspection.

Commercial sources in operation prior to July 1, 1996 are excluded from the minimum requirements of this chapter, but will be required to install and maintain a gravity-type separator, interceptor, or other such device on the kitchen sink for the removal of oil and grease. These devices shall be the largest type available that will fit under the sink and shall not be connected to any dishwashers. These devices will be allowed to remain in service until such time the City of Dayton determines the device is not preventing regulated substances from entering the city's sewer system or the device is not being adequately maintained. Upon this determination, the city will require the establishment to install the minimum size device as outlined under § 18-412(3) of this chapter.

It shall be the duty of every establishment required to have such devices, to maintain the device and to have same pumped whenever the level of grease or other substance has reached the top of the effluent pipe from the device, or when it appears to the city or its representative that said grease, oil, or other substances are leaving the aforementioned device and are being introduced into the city's sewer system.

New commercial or industrial dischargers of wastewater into the City of Dayton's wastewater collection system are required by this chapter to install and maintain a gravity-type separator, interceptor, or other such device for the removal of oil, grease, sand, grit, entrails, or other such material likely to create

or contribute to a blockage of the wastewater sewer system or the Wastewater Treatment Plant (WWTP) unless such establishments are specifically excluded from this requirement.

New or existing commercial establishments which are generally not required to install pretreatment devices include, but are not limited to:

(a) Commercial establishments which are not involved in food processing, preparation, packaging, or handling; or

(b) Commercial establishments with food preparation, but no deep fryer, or grill.

Although these establishments are initially excluded from the pretreatment device requirement, if it is determined that these business are causing sewer line stoppages due to grease or other problems, then pretreatment devices will be required.

If a new or existing commercial establishment plans to add a deep fryer or a grill, that establishment must notify the city prior to installation and submit plans as specified in § 18-412(3).

Every establishment with a separation device is required to maintain a maintenance log on all devices. The log will show the date of all cleanings and who performed the cleaning. Disposition of removed substances is to be recorded. The maintenance log will be provided by the city and shall be available for examination by the city or its representative at any time and shall be submitted annually to the city between May 1 - 31 each year. Failure to carry out this reporting procedure is a violation of this chapter and the city may institute enforcement action under § 18-448 et seq. of this chapter.

(2) Inspection. Each commercial or industrial user required to own and maintain such pretreatment devices will be inspected at least once each year. Maintenance records shall be kept and shall be available for review by the city's personnel during inspection.

City of Dayton personnel shall be permitted ready access to inspect devices for compliance. If found in violation, the user will be issued a seven (7) day notice to come into compliance. Failure to correct the noncompliance within seven (7) day period will result in the termination of water service under § 18-448 et seq. of this chapter. If the severing of water service will possibly result in a threat to public health, then the grease trap will be pumped by City of Dayton personnel. The user will be responsible for all labor, equipment, and disposal charges incurred by the city. These charges will be added to user's utility bill.

(3) Submittals and design. Prior to installation of new gravity-type separators, grease traps, screens, or other pretreatment devices, plans and design calculations shall be submitted to City of Dayton personnel for review and approval. No specifications for pretreatment devices are detailed in these regulations except for grease traps and grit separators. Grease trap specifications are outlined on drawing number GR1 at the end of this section

and within this section. Grit separator specifications for car wash operations are outlined on drawing number GR-2 at the end of this section and within this section. City of Dayton personnel will evaluate separately the materials and criteria proposed for use in the design of other pretreatment devices.

All grease traps are to meet design criteria as outlined in this section. Person(s) wising to install pre-cast concrete septic tanks or concrete tanks must submit to the city a design drawing. A field inspection shall be required to ensure that the installation complies with the approved drawings and that adequate baffling has been installed in the device. During the site plan review conducted by the City of Dayton personnel of proposed commercial and industrial developments, the need for a grease trap or other pretreatment devices will be determined. lf a grease trap or other pretreatment device is required, then detailed plumbing plans shall be submitted to the city prior to commencement of construction.

Grease trap sizes wi ll be determined by the following formula:

Grease trap size (gallons) = F.U. x 0.5 x 5 gpm x 20 minutes

Where F.U. = fixture units plumbed into the grease trap (fixture unit values as listed in the Southern Building Code)

gpm = gallons/minute

(4) Private waste disposal. Acceptable disposal options for the wastes removed from these devices includes recycling collectors, trash disposal, or commercial collectors. These options are contingent on the regulations of landfills where the waste is disposed.

(5) Fees. Users required to install and maintain a gravity-type separator, interceptor, or other such device will be subject to an annual fee. These fees are outlined in § 18-452, as passed and amended from time to time by the council of the City of Dayton. All fees will appear on the user's utility bill. In the event the user chooses not to pay said fees, water service will be terminated until such time fees and any other late charges have been paid.

Any person(s) including, but not limited to, commercial users who willfully or negligently violates any provision of this chapter or any orders or permits issued hereunder shall, upon conviction, be guilty of a misdemeanor, punishable by a fine as outlined in § 18-448 et seq. of this chapter. (as added by Ord. #568, June 2014)

18-413. Accidental discharge/slug discharge control plans. Each industrial user shall provide protection from slug discharge of prohibited materials or other substances regulated by this chapter. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner or user's own cost and expense. Detailed plans showing facilities

and operating procedures to provide this protection shall be submitted to the superintendent for review, and shall be approved by the city before construction of the facility. All existing users shall complete such a plan within one hundred eighty (180) days from the effective date of this chapter. No user who commences contribution to the POTW after the effective date of this chapter shall be permitted to introduce pollutants into the system until slug discharge procedures have been approved by the city. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to meet the requirements of this chapter. In the case of a slug discharge, it is the responsibility of the user to immediately telephone and notify the POTW of this incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions.

(1) Written notice. Within five (5) days following a slug discharge, the user shall submit to the superintendent a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of 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 other applicable law.

(2) 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 slug discharge. Employers shall insure that all employees who may cause or suffer such a slug discharge to occur are advised of the emergency notification procedure. (as added by Ord. #568, June 2014)

18-414. Hauled wastewater. (1) Septic tank waste may be introduced into the POTW only at locations designated by the superintendent, and at such times as are established by the superintendent. Such waste shall not violate the requirements of this chapter or any other requirements established by the city. The superintendent may require septic tank waste haulers to obtain individual wastewater discharge permits.

(2) The superintendent may require haulers of industrial waste to obtain individual wastewater discharge permits. The superintendent may require generators of hauled industrial waste to obtain individual wastewater discharge permits. The superintendent also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this chapter.

(3) Industrial waste haulers may discharge loads only at locations designated by the superintendent. No load may be discharged without prior consent of the superintendent. The superintendent may collect samples of each hauled load to ensure compliance with applicable standards. The superintendent

may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

(4) Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes. (as added by Ord. #568, June 2014)

18-415. Private sewage disposal and holding tank disposal.

(1) Private sewage disposal. Where any residence, office, recreational facility or other establishments used for human occupancy is not accessible to the POTW, the user shall provide a private sewage disposal system. Where any residence, office, recreational facility, or other establishment used for human occupancy, where the building drain is below the elevation to obtain a one percent (1%) grade in the building sewer, but is otherwise accessible to the POTW, the owner shall provide a private sewage pumping station as provided in § 18-416.

(a) Non-availability certificate. A private sewage disposal system may not be constructed within the city limits unless and until a certificate is obtained from the superintendent stating that the POTW is not accessible to the property and no such POTW is proposed for construction in the immediate future. If the property is within reasonable distance of the POTW, connection to the POTW is required. The superintendent shall determine the reasonable distance to the POTW but in no case shall the reasonable distance be less than five hundred feet (500') for gravity flow or less than three hundred feet (300') for a private sewage force main. No certificate shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than that specified by the City of Dayton and the Rhea County Health Department.

(b) Requirements. Any private sewage disposal system must be constructed in accordance with the requirements of the State of Tennessee and of the Rhea County Health Department and the City of Dayton, Tennessee, and must be inspected and approved by the authorized representative of the Rhea County Health Department and by the superintendent. 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 POTW becomes available, the building sewer shall be connected to such POTW within sixty (60) days of the date of availability, and the private sewage disposal system shall be cleaned of sludge and filled with suitable material.

No statement contained in this chapter shall be construed to interfere with any additional requirements that may be imposed by the Rhea County Health Department.

(2) Regulation of holding tank waste disposal. (a) Septic tanks. No person owning vacuum or "septic tank" pump trucks or other liquid waste transport trucks shall discharge directly or indirectly such sewage into the POTW, unless such person shall first have applied for and received a truck discharge operation permit from the superintendent. All applicants for a truck discharge operation permit shall complete such forms as required by the superintendent, pay appropriate fees, and agree in writing to abide by the provisions of this section and any special conditions or regulations established by the superintendent. Such permits shall be valid for a period of one (1) year from date of issuance, provided that such permit shall be subject to revocation by the superintendent for violation of any provision of this section or reasonable regulations established by the superintendent. Such permits shall be limited to the discharge of domestic sewage waste containing no industrial waste.

(b) Other holding tank waste. No person shall discharge any other holding tank waste into the POTW unless he shall have applied for and have been issued a permit by the superintendent. Unless otherwise allowed under the terms and conditions of the permit, a separate permit must be secured for each separate discharge. The permit shall state the specific location of the discharge, the time of day the discharge is to occur, the volume of the discharge, and shall limit the wastewater constituents and characteristics of the discharge. Such user shall pay any applicable charges or fees thereof, and shall comply with the conditions of the permit issued by the superintendent and the Solid Waste Disposal Act (42 U.S.C. 6901, et seq.). Provided, however, no permit will be required to discharge domestic waste from a recreational vehicle holding tank provided such discharge is made into an approved facility designed to receive such waste.

(c) Fees. For each permit issued under the provisions of this chapter, an annual serv ice charge shall be paid to the city to be set as specified in § 18-452. Any such permit granted shall be for one (1) full 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 on each side of each motor vehicle used in the conduct of the business permitted hereunder. All users discharging septic tank or holding tank wastes to the POTW shall pay appropriate fees to be established as specified in § 18-452.

(d) Designated disposal location(s). The superintendent shall designate approved location(s) for the emptying and cleansing of all

equipment used in the performance of the services rendered under the permit herein provided for, and it shall be a violation hereof for any person, firm , association or corporation to empty or clean such equipment at any place other than a place so designated. The superintendent may refuse to accept any truckload of waste at his absolute discretion where it appears that the waste could interfere with the effective operation of the POTW.

(e) Revocation of permit. Failure to comply with all the provisions of this chapter shall be sufficient cause for the revocation of such permit by the superintendent. The possession within the service area by any person of any motor vehicle equipped with a body type and accessories of a nature and design capable of serving a septic tank of wastewater or excreta disposal system cleaning unit shall be prima facie evidence that such person is engaged in the business of cleaning, draining, or flushing septic tanks or other wastewater or excreta disposal systems within the service area of the City of Dayton. (as added by Ord. #568, June 2014)

18-416. Building sewers and connections. (1) Building sewer permit. No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any POTW or appurtenances thereof without first obtaining a written building sewer permit from the superintendent.

Any residential and commercial user discharging only domestic wastes shall make application for a building sewer permit furnished by the city. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the superintendent.

(2) Connections. All cost and expense incident to the installation and connection 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. Connection to the POTW shall be made only by the City of Dayton or its duly authorized agent. The sewer connection and all building sewers, from the building to the POTW, shall be inspected by the superintendent before the underground portion is covered.

A separate and independent building sewer shall be provided for every building; except where a 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 on building sewer.

(3) Installation. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the superintendent, to meet all requirements of this chapter. All others shall be sealed to the specifications of the superintendent.

Building sewers shall be at least four inches (4") in diameter. Larger building sewers shall be used as necessary in order to carry the flow anticipated. Four inch (4") building sewers shall be laid on a grade of at least one percent (1%). Larger building sewers shall be laid on a grade that will produce a velocity when flowing full of at least two feet (2') per second. Slope and alignment of all buildings sewers shall be neat and regular. Pipe materials as specified below shall be used. Pipe shall conform to the appropriate ASTM specification and shall be laid in conformation with the appropriate ASTM specification of the WEF Manual of Practice, Number 9.

Building sewers shall be constructed only of

(a) Concrete or clay sewer pipe using rubber compression joints of approved type;

(b) Cast-iron soil pipe using rubber compression joints of approved type;

(c) Polyvinyl-chloride pipe with rubber compression joints;

(d) ABS composite sewer pipe with solvent welded or rubber compression joints of approved type; or

(e) Such other materials of equal or superior quality as may be approved by the superintendent. Under no circumstances will cement mortar joints be acceptable.

Each connection to the POTW must be made at a wye, or service line stubbed out, or in the absence of any other provision, by means of a saddle of any type approved by the superintendent attached to the sewer. No connection may be made by breaking into an existing sewer and inserting the service line.

The building sewer may be brought into the building below the basement floor when gravity flow from the building to the POTW is at a grade of one percent (1%) or more if possible. In cases where basement or floor levels are lower than the ground elevation at the point of connection to the POTW, 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 POTW, wastes carried by such building drain shall be lifted by an approved means and discharged to the building at the expense of the owner.

No person shall make connection of roof downspouts, exterior foundation drains, area way drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to the POTW.

The connection of the building sewer into the POTW shall conform to the rules and regulations the city may establish and the procedures set forth in appropriate specifications of the ASTM and the WEF Manual of Practice, Number 9. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installation.

The applicant for the building sewer permit shall notify the superintendent when the building sewer is ready for inspection and connection to the POTW. The connection shall be made under the supervisor of the superintendent or his representative.

All excavations for building sewer installation shall be adequately guarded with barricades and light 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.

Each individual property owner or user of the POTW shall be entirely responsible for the maintenance of the building sewer located on private property. This maintenance shall include repair or replacement of the service line as deemed necessary by the superintendent to meet specifications of the city. (as added by Ord. #568, June 2014)

18-417. Wastewater analysis. When requested by the superintendent, a user must submit information on the nature and characteristics of its wastewater with in ninety (90) days of the request. The superintendent is authorized to prepare a form for this purpose and may periodically require users to update this information. (as added by Ord. #568, June 2014)

18-418. Individual wastewater discharge permit requirement.

(1) No significant industrial user shall discharge wastewater into the POTW without first obtaining an individual wastewater discharge permit from the superintendent, except that a significant industrial user that has filed a timely application pursuant to § 18-419 of this chapter may continue to discharge for the time period specified therein.

(2) The superintendent may require other users to obtain individual wastewater discharge permits as necessary to carry out the purposes of this chapter.

(3) Any violation of the terms and conditions of an individual wastewater discharge permit shall be deemed a violation of this chapter and subjects the wastewater discharge pennittee to the sanctions set out in § 18-447 et seq. of this chapter. Obtaining an individual wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state, and local law. (as added by Ord. #568, June 2014)

18-419. Individual wastewater discharge permitting: existing connections. Any user required to obtain an individual wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of this ordinance and who wishes to continue such discharges in the future, shall, within one hundred eighty (180) days after said date, apply to the superintendent for an individual wastewater discharge permit in accordance

with § 18-421 of this chapter, and shall not cause or allow discharges to the POTW to continue after one hundred eighty (180) days of the effective date of this chapter except in accordance with an individual wastewater discharge permit issued by the superintendent. (as added by Ord. #568, June 2014)

18-420. Individual wastewater discharge permitting: new connections. Any user required to obtain an individual wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this individual wastewater discharge permit, in accordance with § 18-421 of this chapter, must be filed at least ninety (90) days prior to the date upon which any discharge will begin or recommence. (as added by Ord. #568, June 2014)

18-421. Individual wastewater discharge permit application contents. All users required to obtain an individual wastewater discharge permit must submit a permit application. The superintendent may require users to submit all or some of the following information as part of a permit application:

(1) Identifying information. (a) The name and address of the facility, including the name of the operator and owner.

(b) Contact in formation, description of activities, facilities, and plant production processes on the premises;

(2) Environmental permits. A list of any environmental control permits held by or for the facility.

(3) Description of operations. (a) A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes.

(b) Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;

(c) Number and type of employees, hours of operation, and proposed or actual hours of operation;

(d) Type and amount of raw materials processed (average and maximum per day);

(e) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;

(4) Time and duration of discharges;

(5) The location for monitoring all wastes covered by the permit;

(6) Flow measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in § 18-406 (Tennessee Rule 0400-40-14-.06(5)).

(7) Measurement of pollutants. (a) The categorical pretreatment standards applicable to each regulated process and any new categorically regulated processes for existing sources.

(b) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the superintendent, of regulated pollutants in the discharge from each regulated process.

(c) Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported.

(d) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in § 18-440 of this chapter. Where the standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the superintendent or the applicable standards to determine compliance with the standard.

(e) Sampling must be performed in accordance with procedures set out in § 18-441 of this chapter.

(8) Any requests for a monitoring waiver (or a renewal of an approved monitoring waiver) for a pollutant neither present nor expected to be present in the discharge based on § 18-434(2) [2300-4-14-.12(5)(b)].

(9) Any other information as may be deemed necessary by the superintendent to evaluate the permit application.

Incomplete or inaccurate applications will not be processed and will be returned to the user for revision. (as added by Ord. #568, June 2014)

18-422. Application signatories and certifications. (1) All wastewater discharge permit applications, user reports and certification statements must be signed by an authorized representative of the user and contain the certification statement in § 18-444(1).

(2) If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this section must be submitted to the superintendent prior to or together with any reports to be sign by an authorized representative. (as added by Ord. #568, June 2014)

18-423. Individual wastewater discharge permit decisions. The superintendent will evaluate the data furnished by the user and may require additional information. Within sixty (60) days of receipt of a complete permit application, the superintendent will determine whether to issue an individual wastewater discharge permit. The superintendent may deny any application for an individual wastewater discharge permit. (as added by Ord. #568, June 2014)

18-424. Individual wastewater discharge permit duration. An individual wastewater discharge permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. An individual wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the superintendent. 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. Each individual wastewater discharge permit will indicate a specific date upon which it will expire. (as added by Ord. #568, June 2014)

18-425. Individual wastewater discharge permit contents. An individual wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the superintendent to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

(1) Individual wastewater discharge permits must contain:

(a) A statement that indicates the wastewater discharge permit issuance date, expiration date and effective date;

(b) A statement that the wastewater discharge permit is nontransferable without prior notification to the city in accordance with § 18-427 of this chapter, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;

(c) Effluent limits, including best management practices, based on applicable pretreatment standards;

(d) Self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or best management practice) to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law.

(e) The process for seeking a waiver from monitoring for a pollutant neither present nor expected to be present in the discharge in accordance with § 18-434(2).

(f) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time

for compliance beyond that required by applicable federal, state, or local law.

(g) Requirements to control slug discharge, if determined by the superintendent to be necessary.

(h) Any grant of the monitoring waiver by the superintendent (§ 18-434(2)) must be included as a condition in the user's permit [or other control mechanism].

(2) Individual wastewater discharge permits may contain, but need not be limited to, the following conditions:

(a) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;

(b) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;

(c) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;

(d) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;

(e) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;

(f) Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;

(g) A statement that compliance with the individual wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the individual wastewater discharge permit; and

(h) Other conditions as deemed appropriate by the superintendent to ensure compliance with this chapter, and state and federal laws, rules, and regulations. (as added by Ord. #568, June 2014)

18-426. <u>Permit modification</u>. (1) The superintendent may modify an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:

(a) To incorporate any new or revised federal, state, or local pretreatment standards or requirements;

(b) To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of the individual wastewater discharge permit issuance;

(c) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

(d) Information indicating that the permitted discharge poses a threat to the city's POTW, city personnel, the POTW's beneficial sludge use, or the receiving waters;

(e) Violation of any terms or conditions of the individual wastewater discharge permit;

(f) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;

(g) Revision of or a grant of variance from categorical pretreatment standards pursuant to Tennessee Rule 0400-40-14-.13;

(h) To correct typographical or other errors in the individual wastewater discharge permit; or

(i) To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with § 18-427. (as added by Ord. #568, June 2014)

18-427. <u>Individual wastewater discharge permit transfer</u>. Individual wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least ninety (90) days advance notice to the superintendent and the superintendent approves the individual wastewater discharge permit transfer. The notice to the superintendent must include a written certification by the new owner or operator which:

(1) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;

(2) Identifies the specific date on which the transfer is to occur; and

(3) Acknowledges full responsibility for complying with the existing individual wastewater discharge permit.

Failure to provide advance notice of a transfer renders the individual wastewater discharge permit void as of the date of facility transfer. (as added by Ord. #568, June 2014)

18-428. <u>Individual wastewater discharge permit revocation</u>. The superintendent may revoke an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:

(1) Failure to notify the superintendent of significant changes to the wastewater prior to the changed discharge;

(2) Failure to provide prior notification to the superintendent of changed conditions pursuant to § 18-435 of this chapter;

(3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;

(4) Falsifying self-monitoring reports and certification statements;

(5) Tampering with monitoring equipment;

(6) Refusing to allow the superintendent timely access to the facility premises and records;

(7) Failure to meet effluent limitations;

(8) Failure to pay fines;

(9) Failure to pay sewer charges;

(10) Failure to meet compliance schedules;

(11) Failure to complete a wastewater survey or the wastewater discharge permit application;

(12) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or

(13) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this chapter.

Individual wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All individual wastewater discharge permits issued to a user are void upon the issuance of a new individual wastewater discharge permit to that user. (as added by Ord. #568, June 2014)

18-429. Individual wastewater discharge permit reissuance. A user with an expiring individual wastewater discharge permit shall apply for individual wastewater discharge permit reissuance by submitting a complete permit application, in accordance with § 18-421 of this chapter, a minimum of one hundred eighty (180) days prior to the expiration of the user's existing individual wastewater discharge permit. (as added by Ord. #568, June 2014)

18-430. Regulation of waste received from other jurisdictions.

(1) If another municipality, or user located within another municipality, contributes wastewater to the POTW, the superintendent shall enter into an intermunicipal agreement with the contributing municipality.

(2) Prior to entering into an agreement required by paragraph (1), above, the superintendent shall request the following information from the contributing municipality:

(a) A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality;

(b) An inventory of all users located within the contributing municipality that are discharging to the POTW; and

(c) Such other information as the superintendent may deem necessary.

(3) An intermunicipal agreement, as required by paragraph (1), above, shall contain the following conditions:

(a) A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as this chapter and local limits, including required Baseline Monitoring Reports (BMRs) which are at least as stringent as those set out in § 18-408 of this chapter. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the city's ordinance, this chapter or local limits;

(b) A requirement for the contributing municipality to submit a revised user inventory on at least an annual basis;

(c) A provision specifying which pretreatment implementation activities, including individual wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the superintendent; and which of these activities will be conducted jointly by the contributing municipality and the superintendent;

(d) A requirement for the contributing municipality to provide the superintendent with access to all information that the contributing municipality obtains as part of its pretreatment activities;

(e) Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the POTW;

(f) Requirements for monitoring the contributing municipality's discharge;

(g) A provision ensuring the superintendent access to the facilities of users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the superintendent; and

(h) A provision specifying remedies available for breach of the terms of the intermunicipal agreement. (as added by Ord. #568, June 2014)

18-431. <u>Baseline monitoring reports</u>. (1) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under Tennessee Rule 0400-40-14-.06(1)(d), whichever is later, existing categorical industrial users currently discharging to or scheduled to discharge to the POTW shall submit to the superintendent a report which contains the information listed in paragraph (2), below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical industrial users subsequent to the promulgation of an applicable categorical standard, shall submit to the superintendent a report which contains the information listed in paragraph (2), below. A new source shall report the method of

pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(2) Users described above shall submit the information set forth below.

(a) All information required in § 18-421(1)(a), § 18-421(2), § 18-421(3)(a), and § 18-421(6).

(b) Measurement of pollutants.

(i) The user shall provide the information required in § 18-421(7)(a) through (d).

(ii) The user shall take a minimum of one (1) representative sample to compile that data necessary to comply with the requirements of this section.

(iii) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the user should measure the flows and concentrations necessary to allow use of the combined wastestream formula in Tennessee Rule 0400-40-14-.06(5) to evaluate compliance with the pretreatment standards. Where an alternate concentration or mass limit has been calculated in accordance with Tennessee Rule 0400-40-14-.06(5) this adjusted limit along with supporting data shall be submitted to the control authority;

(iv) Sampling and analysis shall be performed in accordance with § 18-440;

(v) The superintendent may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;

(vi) The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.

(c) Compliance certification. A statement, reviewed by the user's authorized representative as defined in § 18-404(4) and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional Operation and Maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(d) Compliance schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall

not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in § 18-432 of this chapter.

(e) Signature and report certification. All baseline monitoring reports must be certified in accordance with § 18-444(1) of this chapter and signed by an authorized representative as defined in § 18-404(4). (as added by Ord. #568, June 2014)

18-432. Compliance schedule progress reports. The following conditions shall apply to the compliance schedule required by § 18-444(1) of this chapter:

(1) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

(2) No increment referred to above shall exceed nine (9) months;

(3) The user shall submit a progress report to the superintendent no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and

(4) In no event shall more than nine (9) months elapse between such progress reports to the superintendent. (as added by Ord. #568, June 2014)

18-433. Reports on compliance with categorical pretreatment standard deadline. Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the superintendent a report containing the information described in § 18-421(6) and (7) and § 18-431(2)(b) of this chapter. For users subject to equivalent mass or concentration limits established in accordance with the procedures in § 18-406, this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period.

All compliance reports must be signed and certified in accordance with § 18-444(1) of this chapter. All sampling will be done in conformance with § 18-441. (as added by Ord. #568, June 2014)

18-434. Periodic compliance reports. (1) All significant industrial users must, at a frequency determined by the superintendent submit no less than twice per year (September and March) reports indicating the nature, concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the user must submit documentation required by the superintendent or the pretreatment standard necessary to determine the compliance status of the user.

(2) The city may authorize an industrial user subject to a categorical pretreatment standard to forego sampling of a pollutant regulated by a categorical pretreatment standard if the industrial user has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the industrial user. This authorization is subject to the following conditions:

(a) The waiver may be authorized where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility provided that the sanitary wastewater is not regulated by an applicable categorical standard and otherwise includes no process wastewater.

(b) The monitoring waiver is valid only for the duration of the effective period of the individual wastewater discharge permit, but in no case longer than five (5) years. The user must submit a new request for the waiver before the waiver can be granted for each subsequent individual wastewater discharge permit. See § 18-421(8).

(c) In making a demonstration that a pollutant is not present, the industrial user must provide data from at least one (1) sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes.

(d) The request for a monitoring waiver must be signed in accordance with § 18-404(4), and include the certification statement in § 18-444(1) (Tennessee Rule 0400-40- 14-.06(1)(b)2).

(e) Non-detectable sample results may be used only as a demonstration that a pollutant is not present if the EPA approved method from 40 CFR part 136 with the lowest minimum detection level for that pollutant was used in the analysis.

(f) Any grant of the monitoring waiver by the superintendent must be included as a condition in the user's permit. The reasons supporting the waiver and any information submitted by the user in its

request for the waiver must be maintained by the superintendent for three (3) years after expiration of the waiver.

(g) Upon approval of the monitoring waiver and revision of the user's permit by the superintendent, the industrial user must certify on each report with the statement in § 18-444(2) below, that there has been no increase in the pollutant in its wastestream due to activities of the industrial user.

(h) In the event that a waived pollutant is found to be present or is expected to be present because of changes that occur in the user's operations, the user must immediately: Comply with the monitoring requirements of § 18-434(1), or other more frequent monitoring requirements imposed by the superintendent, and notify the superintendent.

(i) This provision does not supersede certification processes and requirements established in categorical pretreatment standards, except as otherwise specified in the categorical pretreatment standard.

(3) All periodic compliance reports must be signed and certified in accordance with § 18-444(1) of this chapter.

(4) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(5) If a user subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the superintendent, using the procedures prescribed in § 18-441 of this chapter, the results of this monitoring shall be included in the report. (as added by Ord. #568, June 2014)

18-435. <u>Reports of changed conditions</u>. Each user must notify the superintendent of any significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least ninety (90) days before the change.

(1) The superintendent may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under § 18-421 of this chapter.

(2) The superintendent may issue an individual wastewater discharge permit under § 18-429 of this chapter or modify an existing wastewater discharge permit under § 18-426 of this chapter in response to changed conditions or anticipated changed conditions. (as added by Ord. #568, June 2014)

18-436. Reports of potential problems. (1) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, a slug discharge or slug load, that might cause potential problems for the POTW, the user shall immediately telephone and notify the superintendent of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(2) Within five (5) days following such discharge, the user shall, unless waived by the superintendent, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which might be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this chapter.

(3) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph (1), above. Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.

(4) Significant industrial users are required to notify the superintendent immediately of any changes at its facility affecting the potential for a slug discharge. (as added by Ord. #568, June 2014)

18-437. Reports from unpermitted users. All users not required to obtain an individual wastewater discharge permit shall provide appropriate reports to the superintendent as the superintendent may require. (as added by Ord. #568, June 2014)

18-438. Notice of violation/repeat sampling and reporting. If sampling performed by a user indicates a violation, the user must notify the superintendent within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the superintendent within thirty (30) days after becoming aware of the violation. Resampling by the industrial user is not required if the city performs sampling at the user's facility at least once a month, or if the city performs sampling at the user between the time when the initial sampling was conducted and the time when the user or the city receives the results of this sampling, or if the city has performed the sampling and analysis in lieu of the industrial user. (as added by Ord. #568, June 2014)

18-439. Notification of the discharge of hazardous waste. (1) Any user who commences the discharge of hazardous waste shall notify the POTW,

the EPA Regional Waste Management Division Director, and state hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under § 18-435 of this chapter. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of §§ 18-431, 18-433, and 18-434 of this chapter.

(2) Dischargers are exempt from the requirements of paragraph (1), above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one (1) time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.

(3) In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the superintendent, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

(4) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(5) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this chapter, a permit issued

thereunder, or any applicable federal or state law. (as added by Ord. #568, June 2014)

18-440. Analytical requirements. All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be conducted using the protocols specified in 40 CFR part 136 and amendments thereto and appropriate EPA guidance, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures approved by EPA. (as added by Ord. #568, June 2014)

18-441. Sample collection. Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

(1) Except as indicated in paragraphs (2) and (3) below, the user must collect wastewater samples using twenty-four (24) hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the superintendent. Where time-proportional composite sampling or grab sampling is authorized by the city, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR part 136 and appropriate EPA guidance, multiple grab samples collected during a twenty-four (24) hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the city, as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits.

(2) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

(3) For sampling required in support of baseline monitoring and ninety (90) day compliance reports required in § 18-431 and § 18-433 (Tennessee Rule 0400-40-14-.12(2) and (4)), a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the superintendent

may authorize a lower minimum. For the reports required by § 18-434 (Tennessee Rule 0400-4-14-.12(5) and (8)), the industrial user is required to collect the number of grab samples necessary to assess and assure compliance by with applicable pretreatment standards and requirements. (as added by Ord. 568, June 2014)

18-442. Date of receipt of reports. Written reports will be deemed to have been submitted on the date postmarked. For reports, which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern. (as added by Ord. #568, June 2014)

18-443. Recordkeeping. Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this chapter, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with best management practices established under § 18-408. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the city, or where the user has been specifically notified of a longer retention period by the superintendent. (as added by Ord. #568, June 2014)

18-444. Certification statements. (1) Certification of permit applications, user reports and initial monitoring waiver. The following certification statement is required to be signed and submitted by users submitting permit applications in accordance with § 18-422; users submitting baseline monitoring reports under § 18-431(2)(e); users submitting reports on compliance with the categorical pretreatment standard deadlines under § 18-433; users submitting periodic compliance reports required by § 18-434, and users submitting an initial request to forego sampling of a pollutant on the basis of § 18-434(2)(d).The following certification statement must be signed by an authorized representative as defined in § 18-404(4):

> I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the

system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

(2) Certification of pollutants not present. Users that have an approved monitoring waiver based on § 18-434(2) must certify on each report with the following statement that there has been no increase in the pollutant in its wastestream due to activities of the user.

> Based on my inquiry of the person or persons directly responsible for managing compliance with the pretreatment standard for 40 CFR _____ [specify applicable national pretreatment standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of _____ [list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report under § 18-434(1).

(as added by Ord. #568, June 2014)

18-445. Compliance monitoring. (1) Right of entry, inspection and sampling. The superintendent shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this chapter and any individual wastewater discharge permit or order issued hereunder. Users shall allow the superintendent ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

(a) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the superintendent shall be permitted to enter without delay for the purposes of performing specific responsibilities.

(b) The superintendent shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.

(c) The superintendent may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices

used to measure wastewater flow and quality shall be calibrated at least once per year to ensure their accuracy.

(d) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the superintendent and shall not be replaced. The costs of clearing such access shall be born by the user.

(e) Unreasonable delays in allowing the superintendent access to the user's premises shall be a violation of this chapter.

(2) Search warrants. If the superintendent has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the city designed to verify compliance with this chapter or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, the superintendent may seek issuance of a search warrant from the Circuit Court of Rhea County, Tennessee. (as added by Ord. #568, June 2014)

18-446. Confidential information. Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, individual wastewater discharge permits, and monitoring programs, and from the superintendent's inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the superintendent, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable state law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, 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 immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data, as defined at 40 CFR 2.302 shall not be recognized as confidential information and shall be available to the public without restriction. (as added by Ord. #568, June 2014)

18-447. Publication of users in significant noncompliance. The superintendent shall publish annually, in a newspaper of general circulation that provides meaningful public notice with in the jurisdictions served by the POTW, a list of the users which, at any time during the previous twelve (12)

months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall be applicable to all significant industrial users (or any other industrial user that violates paragraphs (3), (4) or (8) of this section) and shall mean:

(1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits as defined in §§ 18-405 through 18-410;

(2) Technical Review Criteria (TRY) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by §§ 18-405 through 18-410 multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

(3) Any other violation of a pretreatment standard or requirement as defined by §§ 18-405 through 18-410 (daily maximum, long-term average, instantaneous limit, or narrative standard) that the superintendent 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;

(4) Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the superintendent's exercise of its emergency authority to halt or prevent such a discharge;

(5) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

(6) Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(7) Failure to accurately report noncompliance; or

(8) Any other violation(s), which may include a violation of best management practices which the superintendent determines will adversely affect the operation or implementation of the local pretreatment program. (as added by Ord. #568, June 2014)

18-448. <u>Enforcement response plan</u>. Under the authority of <u>Tennessee Code Annotated</u>, § 69-3-123 <u>et seq</u>.

(1) Complaints; notification of violation; orders. (a) (i) Whenever the superintendent has reason to believe that a violation of any provisions of this chapter, pretreatment program, or of orders of the city council issued under it has occurred, is occurring, or is about to occur, the superintendent may cause a written complaint to be served upon the alleged violator or violators.

(ii) The complaint shall specify the provision or provisions of the pretreatment program or order alleged to be violated or about to be violated and the facts alleged to constitute a violation, may order that necessary corrective action be taken within a reasonable time to be prescribed in the order, and shall inform the violators of the opportunity for a hearing before the city council.

(iii) Any such order shall become final and not subject to review unless the alleged violators request by written petition a hearing before the city council as provided in § 18-448(2), no later than thirty (30) days after the date the order is served; provided, that the city council may review the final order as provided in Tennessee Code Annotated, § 69-3-123(a)(3).

(iv) Notification of violation. Notwithstanding the provisions of subsections (i) through (iii), whenever the superintendent 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 the user a written notice of violation. Within fifteen (15) days of the receipt of this notice, the user shall submit to the superintendent an explanation of the violation and a plan for its satisfactory correction and prevention including specific actions. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section limits the authority of the city to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(b) (i) When the superintendent 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 (1) of the following orders. These orders are not prerequisite to taking any other action against the user.

(A) Compliance order. An order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the specified time, sewer

service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a federal pretreatment standard or requirement, nor does a compliance order release the user of liability for any violation, including any continuing violation.

(B) Cease and desist order. An order to the user directing it to cease all such violations and directing it to immediately comply with all requirements and take needed remedial or preventive action to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

(C) Consent order. Assurances of voluntary compliance, or other documents establishing an agreement with the user responsible for noncompliance, including specific action to be taken by the user to correct the noncompliance with in a time period specified in the order.

(D) Emergency order. (1) Whenever the superintendent 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 superintendent may, without prior notice, issue an order reciting the existence of such an emergency and requiring that any action be taken as the superintendent deems necessary to meet the emergency.

(2) If the violator fails to respond or is unable to respond to the order, the superintendent may take any emergency action as the superintendent deems necessary, or contract with a qualified person or persons to carry out the emergency measures. The superintendent may assess the person or persons responsible for the emergency condition for actual costs incurred by the city in meeting the emergency.

(ii) Appeals from orders of the superintendent:

(A) Any user affected by any order of the superintendent in interpreting or implementing the provisions of this chapter may file with the superintendent a written request for reconsideration within thirty (30) days of the order, setting forth in detail the facts supporting the user's request for reconsideration.

(B) If the ruling made by the superintendent is unsatisfactory to the person requesting reconsideration, he may, within thirty (30) days, file a written petition with the city council as provided in paragraph (2). The superintendent's order shall remain in effect during the period of reconsideration.

(C) Except as otherwise expressly provided, any notice, complaint, order, or other instrument issued by or under authority of this section may be served on any named person personally, by the superintendent or any person designated by the superintendent, or service may be made in accordance with Tennessee statutes authorizing service of process in civil actions. Proof of service shall be filed in the office of the superintendent.

(2) Hearings. (a) Any hearing or rehearing brought before the city council shall be conducted in accordance with the following, under the authority of Tennessee Code Annotated, § 69-3-124:

(i) Upon receipt of a written petition from the alleged violator pursuant to this subsection, the superintendent shall give the petitioner thirty (30) days' written notice of the time and place of the hearing, but in no case shall the hearing be he ld more than sixty (60) days from the receipt of the written petition, unless the superintendent and the petitioner agree to a postponement;

(ii) The hearing may be conducted by the city council at a regular or special meeting. A quorum of the city council must be present at the regular or special meeting to conduct the hearing;

(iii) A verbatim record of the proceedings of the hearings shall be taken and filed with the city council, together with the findings of fact and conclusions of law made under this section. The recorded transcript shall be made available to the petitioner or any party to a hearing upon payment of a charge set by the superintendent to cover the costs of preparation;

(iv) In connection with the hearing, the mayor 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 Rhea County, Tennessee has jurisdiction upon the application of the city council or the superintendent to issue an order requiring the person to appear and testify or produce evidence as the case may require, and any failure to obey an order of the court may be punished by such court as contempt;

(v) Any member of the city council may administer oaths and examine witnesses;

(vi) On the basis of the evidence produced at the hearing, the city council shall make findings of fact and conclusions of law and enter decisions and orders that, in its opinion, will best further the purposes of the pretreatment program. It shall provide written notice of its decisions and orders to the alleged violator. The order issued under this subsection shall be issued by the person or persons designated by the mayor no later than thirty (30) days following the close of the hearing;

(vii) The decision of the city council becomes final and binding on all parties unless appealed to the courts as provided in this section.

(viii) Any person to whom an emergency order is directed under § 18-448(1)(b)(I)(D) shall comply immediately, but on petition to the city council will be afforded a hearing as soon as possible. In no case will the hearing be held later than three (3) days from the receipt of the petition by the city council.

(b) An appeal may be taken from any final order or other final determination of the city council by any party who is or may be adversely affected, including the pretreatment agency. Appeal must be made to the chancery court under the common law writ of certiorari set out in Tennessee Code Annotated, § 27-8-101 et seq. within sixty (60) days from the date the order or determination is made.

(c) Show cause hearing. Notwithstanding the provisions of subsections (a) or (b), the superintendent may order any user that causes or contributes to violation(s) of this chapter, wastewater discharge permits, or orders issued hereunder, or any other pretreatment standard or requirements, to appear before the superintendent and show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for the action, and a request that the user show cause why the proposed enforcement action should be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. The notice may be served on any authorized representative of the user. Whether or not the user appears as ordered,

immediate enforcement action may be pursued following the hearing date. A show cause hearing shall not be prerequisite for taking any other action against the user. A show cause hearing may be requested by the discharger prior to revocation of a discharge permit or termination of service.

(3) Violations, administrative civil penalty. Under the authority of Tennessee Code Annotated, § 69-3-125:

(a) (i) Any person including, but not limited to, industrial users, who does any of the following acts or omissions is subject to a civil penalty of up to ten thousand dollars ($10,000.00) per day for each day during which the act or omission continues or occurs:

(A) Unauthorized discharge, discharging without a permit;

(B) Violates an effluent standard or limitation;

(C) Violates the terms or conditions of a permit;

(D) Fails to complete a filing requirement;

(E) Fails to allow or perform an entry, inspection, monitoring or reporting requirement;

(F) Fails to pay user or cost recovery charges; or

(G) Violates a final determination or order of the city council or the superintendent.

(ii) Any administrative civil penalty must be assessed in the following manner:

(A) The superintendent may issue an assessment against any person or industrial user responsible for the violation;

(B) Any person or industrial user against whom an assessment has been issued may secure a review of the assessment by filing with the superintendent 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 city council and, if a petition for review of the assessment is not filed within thirty (30) days after the date the assessment is served, the violator is deemed to have consented to the assessment and it becomes final;

(C) Whenever any assessment has become final because of a person's failure to appeal the assessment, the superintendent may apply to the appropriate court for a judgment and seek execution of the judgment, and the court, in such proceedings, shall treat a failure to appeal the assessment as a confession of judgment in the amount of the assessment;

(D) In assessing the civil penalty the superintendent 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.

(E) The superintendent 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 city council may establish by regulation a schedule of the amount of civil penalty which can be assessed by the superintendent for certain specific violations or categories of violations.

(iv) Assessments may be added to the user's next scheduled sewer service charge and the superintendent 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 ($10,000.00) per day for each day during which the act or omission continues or occurs.

(4) Assessment for noncompliance with program permits or orders. Under the authority of Tennessee Code Annotated, § 69-3-126:

(a) The superintendent 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 city council by the polluter or violator within thirty (30) days of notification of such assessment, the polluter or violator shall be deemed to have consented to the assessment, and it shall become final.

(c) Damages may include any expenses incurred in investigating and enforcing the pretreatment program of this section, in removing, correcting, and terminating any pollution, and also compensation for any actual damages caused by the pollution or violation.

(d) Whenever any assessment has become final because of a person's failure to appeal within the time provided, the superintendent may apply to the appropriate court for a judgment, and seek execution on the judgment. The court, in its proceedings, shall treat the failure to appeal the assessment as a confession of judgment in the amount of the assessment.

(5) Judicial proceedings and relief. Under the authority of Tennessee Code Annotated, § 69-3-127, the superintendent 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 city council or superintendent. In the action, the superintendent 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 § 18-428 of this chapter, users are subject to termination of their wastewater discharge for violations of a wastewater discharge permit, or orders issued hereunder, or for any of the following conditions:

(a) Violation of wastewater discharge permit conditions.

(b) Failure to accurately report the wastewater constituents and characteristics of its discharge.

(c) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge.

(d) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling.

(e) Violation of the pretreatment standards in the general discharge prohibitions as set forth in this chapter.

(f) Failure to properly submit an industrial waste survey when requested by the superintendent.

The user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause, as provided in paragraph (2)(c) above, why the proposed action should not be taken.

(7) Disposition of damage payments and penalties - special fund. All damages and/or penalties assessed and collected under the provisions of this section shall be placed in a special fund by the pretreatment agency and allocated and appropriated for the administration of its wastewater fund or combined water and wastewater fund.

(8) Levels of non-compliance. (a) Insignificant non-compliance: For the purpose of this section, insignificant non-compliance is considered a relatively minor infrequent violation of pretreatment standards or requirements. These will usually be responded to informally with a phone call or site visit but may include a Notice of Violation (NOV).

(b) Significant noncompliance: Shall have the definition as set forth in § 18-447 of this chapter and pursuant to 0400-40-14-.08(6)(b)8. Any significant non-compliance violations will be responded to according to the Enforcement Response Plan Guide Table (Appendix A).[1]

(9) Criminal penalties. In addition to civil penalties imposed by the superintendent and the State of Tennessee, any person who willfully and negligently violates permit conditions is subject to criminal penalties imposed by the State of Tennessee and the United States. (as added by Ord. #568, June 2014)

18-449. Enforcement Response Guide Table. (1) Purpose. The purpose of the Enforcement Response Guide Table is to provide for the consistent and equitable enforcement of the provisions of this chapter.

(2) Enforcement Response Guide Table. The superintendent shall use the schedule in Appendix A, which is incorporated herein by reference as if copied verbatim, to impose sanctions or penalties for the violation of this chapter. (as added by Ord. #568, June 2014)

18-450. Administrative civil penalties. Administrative civil penalties shall be issued according to the following schedule. Violations are categorized in the Enforcement Response Guide Table (Appendix A). The superintendent may assess a penalty within the appropriate range. Penalty assessments are to be assessed per violation per day unless otherwise noted.

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[1]Appendix A to the ordinance 568, which creates this chapter, is of record in the recorders office.

Category 1	No penalty
Category 2	$50.00 - $500.00
Category 3	$500.00 - $1,000.00
Category 4	$1,000.00 - $5,000.00
Category 5	$5,000.00 - $10,000.00

(as added by Ord. #568, June 2014)

18-451. Remedies nonexclusive. The remedies provided for in this chapter are not exclusive. The superintendent may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the city's enforcement response plan. However, the superintendent may take other action against any user when the circumstances warrant. Further, the superintendent is empowered to take more than one enforcement action against any noncompliant user. (as added by Ord. #568, June 2014)

18-452. Pretreatment charges and fees. (1) Purpose. It is the purpose of this section to provide a schedule of charges and fees which will enable the city to comply with the revenue requirements of section 204 of the Clean Water Act. Charges and fees shall be determined in a manner consistent with the regulations of the federal grant program to ensure that sufficient revenues are collected to defray the cost of operating and maintaining, including replacement, adequate wastewater collection and treatment systems. Specific charges and fees shall be adopted by a separate ordinance; this section describes the procedure to be used in calculating the charges and fees. Additional charges and fees to recover funds for capital outlay, bond service costs and capital improvements may be assessed by the city. These charges and fees shall be recovered through the user classification established hereinafter.

(2) Classification of users. All users shall be classified by the superintendent either by assigning each one to a user classification category according to the principal activity conducted on the user's premises, by individual user analysis, or by a combination thereof. The purpose of classification is to facilitate the regulation of wastewater discharges based on wastewater constituents and characteristics.

(3) Types of charges and fees. The city may adopt charges and fees which may include, but are not limited to:

(a) User classification charges;

(b) Fees for monitoring requested by a user;

(c) Fees for permit application;

(d) Appeal fees;

(e) Charges and fees based on wastewater constituents and characteristics;

(f) Fee for use of garbage grinders;

(g) Fees for holding tank wastes;

(h) Fees for reimbursement of administrative cost related to the pretreatment program;

(i) Fees for monitoring, inspection and surveillance procedures;

(j) Fees for reviewing accidental discharge prevention procedures and construction;

(k) Fees for allowing connection of building sewers to the POTW.

(4) Basis of determination of charges. Charges and fees may be based upon a minimum basic charge for each premise, computed on the basis of "normal wastewater" from a domestic premise with the following characteristics:

BOD_5	300 milligrams per liter
COD	700 milligrams per liter
TEN	60 milligrams per liter
NH_3-N	30 milligrams per liter
Suspended Solids	300 milligrams per liter
Total Dissolved Solids	3,000 milligrams per liter
Oil and Grease	100 milligrams per liter

The charges and fees for all classifications of users other than the basic domestic premise shall be based upon the relative difference between the average wastewater constituents and characteristics of that classification as related to those of a domestic premise.

The charges and fees established for permit users shall be based upon the measured or estimated constituents and characteristics of the wastewater discharge of that user which may include, but not be limited to, BOD, COD, SS, NH_3 as N, chlorine demand, and volume.

(a) Surcharge determination procedure. The surcharge(s) shall be based on the analytical results on not less than three (3) twenty-four (24) hour composite samples collected at the control manhole. Samples shall be collected and analyses shall be made by competent operating personnel at the wastewater treatment plant or other persons designated by the city in accordance with the latest edition of "Standard Methods for The Examination of Water and Wastewater."

(b) Surcharge rates. The surcharge on excessive BOD_5, COD, TEN, NH_3N, suspended solids, total dissolved solids, oil and grease, or any constituent found in paragraph (4) shall be determined by the following formula:

Surcharge Factor =

$$\frac{ActualConstituentConcentration}{ConstituentConcentrationfor"NormalSewage"} - 1$$

The "surcharge factor" shall be multiplied by the monthly charge for sewer service to obtain the surcharge for that particular month.

The city may adjust or vary the various rates and/or formulas at its discretion.

(5) User charges. The fair user charge fee schedule consists of a flat base charge based on an equitable distribution of administrative costs of providing sewer service to all customers connected to the POTW and to each lot, parcel of land or premises which may now or hereinafter be located within two hundred feet (200') of a sanitary sewer owned by the city, plus an equitable distribution of the costs of operating expenses, debt amortization and depreciation to all customers connected to the POTW based on water usages as determined by water meters owned by the city. A surcharge will be levied against those users which discharged wastewater that exceeds the strength of "normal wastewater." The owner or occupant of property obtaining water from a source or sources other than through a meter of the city, which water is discharged into the POTW shall install, without cost to the city, a meter or meters to measure the quantity of water received from any such source or sources and shall pay the same rate or rates as provided in this chapter. No meter shall be installed or used for such purpose without the approval of the superintendent.

Whenever a property upon which a fair user charge is hereby imposed uses water for industrial, commercial, or air conditioning purposes, and does not discharge it into the POTW but, through agreement with the POTW, discharges it in some other manner, including discharging it into the city's stormwater system, the quantity of water so used and not discharged into the POTW, shall be excluded in determining the sewer service charge of said owner or occupant. However, the quantity of water so used and not discharged into the POTW must be measured by a device or meter approved by the city and installed by the owner or occupant without cost to the POTW. The current fair user charge fee schedule and the method used in calculating the fee schedule shall at all times be maintained on file by the superintendent for inspection by the public.

(6) Operation and maintenance user charges. Each user's share of operation and maintenance costs will be computed by the following formula:

$$Cu = \frac{Ct}{Vt} x(Vu)$$

Where:

Cu = User's charge for O&M per unit of time.
Ct = Total O&M cost per unit of time.
VT = Total volume contribution from all users per unit of time.

Vu = Volume contribution from a user per unit of time.

Operation and maintenance charges may be established on a percentage of water use charge only in the event that water use charges are based on a constant cost per unit of consumption.

(7) Notification. Each user shall be notified, at least annually, in conjunction with a regular bill, of the rate and that portion of the user charges which are attributable to wastewater treatment services.

(8) Biennial review of operation and maintenance charges. The city shall review not less often than every two (2) years the wastewater contribution of users and user classes, the total costs of operation and maintenance of the treatment works and its approved user charge system. The city shall revise the charges for users or user classes to accomplish the following:

(a) Maintain the proportionate distribution of operation and maintenance costs among users and user classes as required herein;

(b) Generate sufficient revenue to pay the total operation and maintenance costs necessary to proper operation and maintenance (including replacement) of the treatment works; and

(c) Apply excess revenues collected from a class of users to the costs of operation and maintenance attributable to that class for the next year and adjust the rate accordingly. (as added by Ord. #568, June 2014)

18-453. Severability. If any section, subsection, paragraph, or provision of this chapter is held by any court of competent jurisdiction to be invalid or unconstitutional, the remaining sections, subsections, paragraphs and provisions of this chapter shall not be affected or invalidated and shall continue in full force and effect. (as added by Ord. #568, June 2014)

18-454. Conflict. All other chapters, ordinances or parts of other ordinances inconsistent or conflicting with any part of this chapter are hereby repealed to the extent of such inconsistency or conflict. (as added by Ord. #568, June 2014)

CHAPTER 5

WASTEWATER REGULATIONS

SECTION

18-501. Purpose and policy. This chapter sets forth uniform requirements for the users of the wastewater collection and treatment system for the City of Dayton, Tennessee, and enables the city to comply with all applicable state and federal laws required by the Clean Water Act of 1977 and

the general pretreatment regulations (40 CFR, Part 403). The objectives of this chapter are:

(1) To prevent the introduction of pollutants into the municipal wastewater treatment system that will interfere with the operation of the system or contaminate the resulting sludge.

(2) To prevent the introduction of pollutants into the municipal wastewater system which will pass through the system inadequately treated into receiving waters or the atmosphere or otherwise be incompatible with system.

(3) To improve the opportunity to recycle and reclaim wastewaters and sludges from the system.

(4) To provide for equitable distribution of the cost of the municipal wastewater system.

This chapter provides for the regulation of contributors to the municipal wastewater system through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting, and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

This chapter shall apply to the City of Dayton, and to the persons outside the city who are, by contract or agreement with the city, users of the City of Dayton's POTW. Except as otherwise provided herein, the Superintendent of the Water and Sewer Department for the City of Dayton shall administer, implement, and enforce the provisions of this chapter. (1988 Code, § 8-301)

18-502. Definitions. Unless the context specifically indicates otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated:

(1) "Act or the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended 33 U.S.C. 1251, et seq.

(2) "Approval authority." The director in an NPDES state with an approved State Pretreatment Program and the Administrator of the EPA in a non-NPDES state or NPDES state without an Approved State Pretreatment Program.

(3) "Authorized representative of industrial user." An authorized representative of an industrial user may be:

(a) A principal executive officer of at least the level of vice-president, if the industrial user is a corporation;

(b) A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively; or

(c) A duly authorized representative of the individual designated above if the representative is responsible for the over-all operation of the facilities from which the indirect discharge originates.

(4) "Biochemical oxygen demand (BOD)." The quantity of oxygen used in the biochemical oxidation of organic matter under standard laboratory procedure, for five (5) days at 20° centigrade expressed in terms of weight and concentration (milligrams per liter (mg/1)).

(5) "Building sewer." A sewer conveying wastewater from the premises of a user to the POTW.

(6) "Categorical standards." National Categorical Pretreatment Standards or Pretreatment Standard.

(7) "City." The City of Dayton, Tennessee.""

(8) "Compatible pollutant." Biochemical oxygen demand, suspended solids, pH and fecal coliform bacteria; plus any additional pollutants identified in the publicly-owned treatment work's NPDES permit, where publicly-owned treatment works is designed to treat such pollutants and, in fact, does remove or reduce such pollutants to the degree required by the POTW's NPDES permit.

(9) "Cooling water." The water discharge from any use such as air conditioning, cooling, or refrigeration, or to which the only pollutant added is heat.

(10) "Direct discharge." The discharge of treated or untreated wastewater directly to the waters of the State of Tennessee.

(11) "Environmental Protection Agency, or EPA." The U. S. Environmental Protection Agency.

(12) "Grab sample." A sample that is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

(13) "Holding tank waste." Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

(14) "Incompatible pollutant." All pollutants other than compatible pollutants.

(15) "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).

(16) "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).

(17) "Interference." The inhibition or disruption of the POTW treatment processes or operations which contributes to a violation of any requirement of the city's NPDES Permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with 405 of the Act, (33 U.S.C. 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, or more stringent state criteria (including those

contained in any State sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the municipal wastewater treatment system.

(18) "Local administrative officer" means the chief administrative officer of a pretreatment agency which has adopted and implemented an approved pretreatment program pursuant to this part and 33 U.S.C. Section 1251, et seq. and 40 C. F. R. Section 403.1, et seq.

(19) "Local hearing authority" means the administrative board created pursuant to an approved pretreatment program which is responsible for the administration and enforcement of that program and provisions of this act.

(20) "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.

(21) "National prohibitive discharge standard or prohibitive discharge standard." Any regulation developed under the authority of section 307 (b) of the Act and 40 CFR, Section 403.5.

(22) "New source." Any source, whose construction 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 the source, if the standard is thereafter promulgated within 120 days of proposal in the "Federal Register." Where the standard is promulgated later than 120 days after proposal, a new source means any source, whose construction is commenced after the date of promulgation of the standard.

(23) "National pollution discharge elimination system of NPDES permit." A permit issued to a POTW pursuant to section 402 of the Act (33 U.S.C. 1342)

(24) "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.

(25) "pH." The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

(26) "Pollution." The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

(27) "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.

(28) "Pretreatment or treatment." The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of

pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical, biological processes, or process changes or other means, except as prohibited by 40 CFR Section 40.36(d).

(29) "Pretreatment program" means the rules, regulations and/or ordinances of a pretreatment agency regulating the discharge and treatment of industrial waste which complies with this part and 33 U.S.C. Section 1251, et seq. and 40 C. F. R. Section 403.1, et seq.

(30) "Pretreatment requirements." Any substantive or procedural requirement related to pretreatment other than a national pretreatment standard imposed on an industrial user.

(31) "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 of Dayton who are, by contract or agreement with the City of Dayton users of the city's POTW.

(32) "POTW treatment plant." That portion of the POTW designed to provide treatment to wastewater.

(33) "Shall" is mandatory; "May" is permissive.

(34) "Significant industrial user." Any industrial user of the city's wastewater disposal system who (a) has a discharge flow of 50,000 gallons or more per average work day, or (b) has a discharge flow containing a weight of BOD(5) or suspended solids equivalent to that weight found in 50,000 gpd of sanitary wastes, or (c) has a flow greater than 5% of the flow in the city's wastewater treatment system, or (d) has in his wastes toxic pollutants as defined pursuant to section 307 of the Act, or (e) is found by the city, state, or the U.S. Environmental Protection Agency (EPS) to have significant impact, either singly or in combination with other contributing industries, on the wastewater treatment system, the qualify of sludge, the system's effluent quality, or air emissions generated by system.

(35) "State." State of Tennessee.

(36) "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.

(37) "Storm water." Any flow occurring during or after any form of natural precipitation and resulting therefrom.

(38) "Superintendent." The person designated by the city to supervise the operation of the POTW and who is charged with certain duties and responsibilities by this chapter.

(39) "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.

(40) "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.

(41) "Twenty-four (24) hour flow proportional composite sample." A sample consisting of several sample portions collected during a 24-hour period in which the portions of a sample are proportioned to the flow and combined to form a representative sample.

(42) "User." Any person who contributes, causes or permits the contribution of wastewater into the city's POTW.

(43) "Wastewater." The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together with any ground water, surface water, and storm water that may be present whether treated or untreated, which is contributed into or permitted to enter the POTW.

(44) "Waters of the state." All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other natural or artificial bodies, public or private, that are contained within, flow through, or border upon the state or any portion thereof.

(45) "Wastewater contribution permit." As set forth in this § 18-515(3) of this chapter. (1988 Code, § 8-302)

18-503. Abbreviations. The following abbreviations shall have the designated meanings:

BOD	-	Biochemical oxygen demand
CFR	-	Code of Federal Regulations
COD	-	Chemical oxygen demand
EPA	-	Environmental Protection Agency
l	-	Liter
mg	-	Milligrams
mg/l	-	Milligrams per liter
NPDES	-	National pollutant discharge elimination system
POTW	-	Publicly-owned treatment works
SIC	-	Standard industrial classification
SWDA	-	Solid Waste Disposal Act, 42 U.S.C. 6901, et seq
TSS	-	Total suspended solids
U.S.C.	-	United States Code (1988 Code, § 8-303)

18-504. General discharge prohibitions. No user shall contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the POTW. These general prohibitions apply to all such users of the POTW whether or not the user is subject to national categorical pretreatment standards or requirements. A user may not contribute the following substances to the POTW:

(1) Any liquids, solids, or gases that 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 of 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 en percent (10%) of the lower explosive limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides and any other substances the city, the state, or EPA has notified the user is a fire hazard or a hazard to the system.

(2) Solid or viscous substances that may cause obstruction to the flow in a sewer or other interference with the operation of the POTW such as, but not limited to: grease, garbage with particles greater than one-half (½") inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud or glass grinding or polishing wastes.

(3) Any wastewater having a pH less than 6.0 or higher than 9.0, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW.

(4) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the 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.

(5) Any noxious or malodorous liquids, gases, or solids that either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for their maintenance and repair.

(6) Any substance that 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 where the POTW is pursuing a reuse and reclamation program. In no case shall a substance discharged to the POTW cause the POTW to be in non-compliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or State criteria applicable to the sludge management method being used.

(7) Any substance that will cause the POTW to violate its NPDES and/or state disposal system permit or the receiving water quality standards.

(8) Any wastewater causing discoloration of the POTW effluent to the extent that the receiving stream water quality requirements would be violated, such as, but not limited to, dye wastes and vegetable tanning solutions.

(9) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the POTW which exceeds 60°C (140°F) or causes the influent to the wastewater treatment plant to exceed 40°C (104°F).

(10) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow and/or pollutant concentration which a user knows or has reason to know will cause interference to the POTW. In no case shall a slug load have a flow rate or contain concentration or qualities of pollutants that exceed for any time period longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration, quantities, or flow during normal operation.

(11) Any wastewater containing any radioactive wastes or isotopes of such half line or concentration as may exceed limits established by the City of Dayton in compliance with applicable state or federal regulations.

(12) Any wastewater that causes a hazard to human life or creates a public nuisance.

(13) Any stormwater (flow occurring during or following any form of natural precipitation and resulting therefrom), surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the Tennessee Department of Public Health. Uncontaminated industrial cooling water or unpolluted process waters may be discharged on approval of the Tennessee Department of Public Health to a storm sewer or natural outlet. When the superintendent determines that a user(s) is contributing to the POTW, any of the above enumerated substances in such amounts as to interfere with the operation of the POTW, the superintendent shall: (1) Advise the user(s) of the

impact of the contribution on the POTW; and (2) Develop effluent limitation(s) for such user(s) to correct the interference with the POTW. (1988 Code, § 8-304)

18-505. Federal categorical pretreatment standards. Upon the promulgation of the federal categorical pretreatment standard for a particular industrial subcategory, shall immediately supersede the limitations imposed under this chapter. The affected user shall come into compliance with these limitations within three (3) years following promulgation of the standard. (1988 Code, § 8-305)

18-506. Modification of federal categorical pretreatment standards. Where the city's wastewater treatment system achieves consistent removal of pollutants limited by federal pretreatment standards. "Consistent removal" means reduction in the amount of a pollutant or alteration of the nature of the pollutant by the wastewater treatment system to a less toxic or harmless state in the effluent which is achieved by the system in 95% of the samples taken when measured according to the procedures set forth in Section 403.7(c)(2) of (Title 40 of the Code of Federal Regulations, Part 403) "General Pretreatment Regulations for Existing and New Sources of Pollution" promulgated pursuant to the Act. The city may modify pollutant discharge limits in the federal pretreatment standards if the requirements contained in 40 CFR, Part 403, section 403.7, are fulfilled and prior approval from the approval authority is obtained. (1988 Code, § 8-306)

18-507. Specific pollutant limitations. No person or user shall discharge wastewater to the POTW that exceeds the following standards. Dilution of any wastewater discharge for the purpose of meeting these standards shall be considered in violation of this chapter.

Pollutant	Daily Average Maximum Concentration (mg/1) (24-hour Composite Sample)
Biochemical Oxygen Demand	300
Chemical Oxygen Demand	700
Total Suspended Solids	300
Total Dissolved Solids	3000
Copper	1.50

Chromium, Total	0.840
Nickel	0.40
Cadmium	0.10
Lead	1.0
Mercury	0.010
Silver	0.10
Zinc	0.340
Cyanide	0.60
Toluene	0.850
Benzene	0.050
1,1.1-Trichloromethane	1.00
Pesticides	Below Detectable Limit (BDL)
Surface Active Agents (as MBAS) Non-Biodegradable	10
Total Oil and Grease	70

No person or user shall discharge any waters or waste that cause the wastewater arriving at the treatment facility to exceed any of the maximum concentration limits for a 24-hour composite sample tabulated as follows:

Pollutant	Maximum Concentration (mg/1)
Biochemical Oxygen Demand	215
Chemical Oxygen Demand	325
Total Suspended Solids	215
Total Dissolved Solids	3000
Copper	0.50
Chromium	0.20
Nickel	0.10
Cadmium	0.030
Lead	0.250
Mercury	0.004
Silver	0.030
Zinc	0.115
Cyanide	0.150
Toluene	0.215
Benzene	0.013
1,1.1-Trichloromethane	0.30
Pesticides	Below Detectable Limit (BDL)

Surface Active Agents (as MBAS)	
Non-Biodegradable	10
Total Oil Grease	20

(1988 Code, § 8-307)

18-508. State requirements. State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this chapter. (1988 Code, § 8-308)

18-509. City's right of revision. The city reserves the right to establish by ordinance more stringent limitations or requirements on discharges to the POTW if deemed necessary to comply with the objectives presented in § 18-501 of this chapter. (1988 Code, § 8-309)

18-510. Excessive discharge. No user shall ever increase the use of process water, or in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the Federal Categorical Pretreatment Standards, or in any other pollutant - specific limitation developed by the city or state. (Comment: Dilution may be acceptable means of complying with some of the prohibitions set forth in § 18-604, e.g., the pH prohibition.). (1988 Code, § 8-310)

18-511. Accidental discharges. Each industrial user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this chapter. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the superintendent for review, and shall be approved by the city before construction of the facility. All existing users shall complete such a plan within 170 days from the effective date of this chapter. No user who commences contribution to the POTW after the effective date of this chapter shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the city. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to meet the requirements of this chapter. In the case of an accidental discharge, it is the responsibility of the user to immediately telephone and notify the POTW of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions.

(1) Written notice. Within five (5) days following an accidental discharge, the user shall submit to the superintendent a detailed written report describing the cause of the discharge and the measures to be taken by the user

to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability that may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall the notification relieve the user of any fines, civil penalties, or other liability that may be imposed by this chapter or other applicable law.

(2) 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 insure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure. (1988 Code, § 8-311)

18-512. Purpose of fees. It is the purpose of this chapter to provide for the recovery of costs from users of the POTW for the implementation of the program established herein. The applicable charges or fees shall be set forth by separate ordinance. (1988 Code, § 8-312)

18-513. Charges and fees. The city may adopt charges and fees that may include:

(1) fees for reimbursement of costs of setting up and operating the city's pretreatment program;

(2) fees for monitoring, inspection, and surveillance procedures;

(3) fees for reviewing accidental discharge procedures and construction;

(4) fees for permit applications;

(5) fees for filing appeals;

(6) fees for consistent removal (by the city) of pollutants otherwise subject to federal pretreatment standards; and

(7) other fees as the city may deem necessary to carry out the requirements contained herein.

These fees relate solely to the matters covered by this chapter and are separate from all other fees chargeable by the city. (1988 Code, § 8-313)

18-514. Wastewater discharges. It shall be unlawful to discharge without a NPDES permit to any natural outlet within the City of Dayton, or in any area under its jurisdiction, any wastewater except as authorized by the superintendent in accordance with the provisions of this chapter. It shall be unlawful to discharge without a City of Dayton permit any wastewater to the POTW except as authorized by the superintendent in accordance with the provisions of this chapter. (1988 Code, § 8-314)

18-515. Wastewater contribution permits. (1) General permits. All users proposing to discharge non-domestic waste to the POTW shall obtain a wastewater contribution permit before connecting to or contributing to the

POTW. Any existing connected user discharging waste other than domestic waste shall obtain a wastewater contribution permit within 180 days after the effective date of the provisions of this chapter.

(2) Permit application. Users required to obtain a wastewater contribution permit shall complete and file with the superintendent an application in the form prescribed by the city. 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 ninety (90) days prior to connecting to or contributing to the POTW. In support of the application, the suer shall submit, in units and terms appropriate for evaluation, the following information:

(a) Name, address, and location (if different form the address);

(b) SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended;

(c) Wastewater constituents and characteristics including but not limited to those mentioned in §§ 18-504--18-511 of this chapter, as determined by a reliable analytical laboratory; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to section 304 (g) of the Act and contained in 40 CFR, Part 136, as amended;

(d) Time and duration of contribution;

(e) Average daily and peak wastewater flow rates, including daily, monthly and seasonable variations, if any;

(f) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by the size, location, and elevation;

(g) Description of activities, facilities, and plant processes on the premises, including all materials that are or could be discharged;

(h) Where known, the nature and concentration of any pollutants in the discharge that are limited by any city, state, or federal pretreatment standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis, and, if not, whether additional O & M and/or additional pretreatment is required for the user to meet applicable pretreatment standards; and

(i) If additional pretreatment and/or O & M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard.

The following conditions shall apply to this schedule:

(i) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional

pretreatment required for the user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction, completing construction, etc.).

(ii) No increment referred to in (i) above shall exceed nine (9) months.

(iii) No later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the superintendent including, as a minimum, whether or not it complied with the increment of progress to be met on that date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine (9) months elapse between these progress reports to the superintendent.

(j) Each product produced by type, amount, process or processes, and rate of production;

(k) Type and amount of raw materials processed (average and maximum per day);

(l) Number of type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system; and

(m) Any other information as may be deemed by the city to be necessary to evaluate the permit application.

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 contribution permit subject to terms and conditions provided herein.

(3) Permit modifications. Within nine (9) months of the promulgation of a national categorical pretreatment standard, the users subject to such standards shall apply for a permit modification to require compliance with the standard within the time frame prescribed by the standard. Where a user subject to a national categorical pretreatment standard has not previously submitted an application for a wastewater contribution permit as required by subsection (2), the user shall apply for a wastewater contribution permit within 180 days after the promulgation of the applicable national categorical pretreatment standard. In addition, the user with an existing wastewater contribution permit shall submit to the superintendent within 180 days after the promulgation of an applicable federal categorical pretreatment standard the information required by paragraphs (h) and (i) of subsection (2).

(4) 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. Permits may contain the following:

(a) The unit charge or schedule of user charges and fees for the wastewater to be discharged to the POTW.

(b) Limits on the average and maximum wastewater constituents and characteristics.

(c) Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization.

(d) Requirements for installation and maintenance of inspection and sampling facilities.

(e) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests, and reporting schedule.

(f) Compliance schedules.

(g) Requirements for submission of technical reports or discharge reports. (see 18-516)

(h) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the city, and affording city access thereto.

(i) Requirements for notification of the city or any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the POTW.

(j) Requirements for notification of slug discharges.

(k) Other conditions as deemed appropriate by the city to ensure compliance with this chapter.

(5) Permit 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 re-issuance a minimum of 180 days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the city during the term of the permit as limitations or requirements as identified in §§ 8-404 through 8-411 are modified or other just cause exists. The user shall be informed of any proposed changes in his permit at least thirty (30) days prior to the effective dated of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(6) 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 approval of the city. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit. (1988 Code, § 8-315)

18-516. Reporting requirements for permittee. (1) Compliance date report. Within ninety (90) days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to pretreatment standards and requirements shall submit to the superintendent a report indicating the nature and concentration of all pollutants in the discharge form the regulated process that are limited by pretreatment standards and requirements and the average and maximum daily flow for these process that are limited by the pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional O & M and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the industrial user, and certified to by a qualified professional engineer registered to practice engineering in the State of Tennessee.

(2) Periodic compliance reports. (a) Any industrial user subject to a pretreatment standard, after the compliance date for the pretreatment standard, or, in the case of a new source, after commencement of the discharge into the POTW, shall submit to the superintendent, upon request, a report indicating the nature and concentration of pollutants in the effluent that are limited by such pretreatment standard and the sewer user ordinance. In addition, this report may also be required to include a report of all daily flows which, during the reporting period, exceed the average daily flow reported in § 18-615(4)(c).

(b) The superintendent may impose mass limitations on users to meet applicable pretreatment standards or requirements, or in any other cases where the imposition of mass limitations is appropriate. In such cases, the report required by subsection (a) shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the superintendent, of pollutants contained therein which are limited by the applicable pretreatment standards. These reports shall be made available to the approval authority upon request. The frequency of monitoring shall be prescribed in the applicable 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, Part 136, and amendments thereto, or with any other test procedures approved by the administrator. Sampling shall be approved by the administrator. (1988 Code, § 8-316)

18-517. Monitoring facilities. The city shall require monitoring facilities to be provided and operated at the user's own expense, to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the city may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

There shall be ample room in or near the 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 a safe and proper operating condition at the expense of the user.

Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the city's requirements and all applicable local construction standards and specification. Construction shall be completed within ninety (90) days following written notification by the city. (1988 Code, § 8-317)

18-518. Inspection and sampling. The city shall inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the city or its representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination or in the performance of any of their duties. The city 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 that 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 will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. (1988 Code, § 8-318)

18-519. Pretreatment. Users shall provide necessary wastewater treatment as required to comply with this chapter and shall achieve compliance with all federal categorical pretreatment standards within the time limitations as specified by the federal pretreatment regulations. Any facilities required to pretreat wastewater to a level acceptable to the city shall be provided, operated, and maintained at the user's expense. Detailed plans, prepared by a professional engineer registered to practice engineering in the State of Tennessee, showing the pretreatment facilities and operating procedures, shall be submitted to the superintendent for review, and shall be acceptable to the city before construction of the facility. The review of such plans and operating

procedures will 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. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the city prior to the user's initiation of the changes.

All records relating to compliance with pretreatment standards shall be made available to officials of the EPA or approval authority upon request. (1988 Code, § 8-319)

18-520. Confidential information. Information and data on a user obtained from reports, questionnaires, permit application, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the city that the release of the information would divulge information, processes, or methods of production entitled to protection as trade secrets of the user.

The portions of a report that might disclose trade secrets or secret processes shall not be made available for inspection by the public when confidentially is reported by the person furnishing the report, but shall be made available upon written request to governmental agencies for uses related to this chapter or the National Pollutant Discharge Elimination System (NPDES) Permit. These portions of a report shall be available for use by the state and 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 city as confidential shall not be transmitted to any governmental agency or to the general public by the city until and unless a thirty (30) day notification is given to the user. (1988 Code, § 8-320)

18-521. Private sewage disposal. Where any residence, office, recreational facility, or other establishment used for human occupancy is not accessible to the POTW, the user shall provide a private sewage disposal system. For any residence, office, recreational facility, or other establishment used for human occupancy where the building drain is below the elevation to obtain a 1% grade in the building sewer but is otherwise accessible to the POTW, the owner shall provide a private sewage pumping station as provided in § 18-625.

(1) Non-availability certificate. A private sewage disposal system may not be constructed within the city limits unless and until a certificate is obtained from the superintendent stating that the POTW is not accessible to the property and no such POTW is proposed for construction in the immediate future. Further, it is required that the owner, tenant or occupant of each lot or parcel of land which abuts upon a street or other public way containing a sanitary sewer and upon which lot or parcel a building exist for residential, commercial

or industrial use, or if the lot be vacant that in the future when a building exist or is constructed for residential, commercial or industrial use, that said owner is required to connect such building with such sanitary sewer and to cease to use any other means for the disposal of sewage, sewage waste or other polluting matter; in addition to any other method of enforcement such requirement, a city, town or utility district also providing water service to such property, may within or without its borders, refuse water service to such owner, tenant or occupant until there has been compliance and may discontinue water service to a owner, tenant or occupant failing to comply within thirty (30) days after notice to comply. Further, that any extension of a sewer line must be approved by the City Council for the City of Dayton and upon approval a permit shall be issued authorizing the extension and designating who shall pay for the cost of said extension. No certificate shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than that specified by the City of Dayton and the Rhea County Health Department.

(2) Requirements. Any private sewage disposal system must be constructed in accordance with the requirements of the State of Tennessee and of the Rhea County Health Department and the City of Dayton, Tennessee, and must be inspected and approved by the authorized representative of the county health department and by the superintendent. 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 POTW becomes available, the building sewer shall be connected to such POTW within 60 days of the date of availability, and the private sewage disposal system shall be cleaned of sludge and filled with suitable material.

No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the Rhea County Health Department. (1988 Code, § 8-321)

18-522. Regulation of holding tank waste disposal. (1) Septic tanks. No person owning vacuum or "septic tank" pump trucks or other liquid waste transport trucks shall discharge sewage directly or indirectly into the POTW unless he has applied for and received a truck discharge operation permit for the superintendent. All applicants for a truck discharge operation permit shall complete the forms required by the superintendent, pay appropriate fees, and agree in writing to abide by the provisions of this section and any special conditions or regulations established by the superintendent. These permits shall be valid for a period of one (1) year from date of issuance, but the permit is subject to revocation by the superintendent for violation of any provisions of this section or reasonable regulation established by the superintendent. Permits shall be limited to the discharge of domestic sewage waste containing no industrial waste.

(2) Other holding tank waste. No person shall discharge any other holding tank waste into the POTW unless he has applied for and been issued a permit by the superintendent. Unless otherwise allowed under the terms and conditions of the permit, a separate permit must be secured for each separate discharge. The permit shall state the specific location of the discharge, the time of day the discharge is to occur, the volume of the discharge, and shall limit the wastewater constituents and characteristics of the discharge. The user shall pay any applicable charges or fees thereof, and shall comply with the conditions of the permit issued by the superintendent and the Solid Waste Disposal Act (42 U.S.C. 6901, et seq.). No permit will be required to discharge domestic waste from a recreational vehicle holding tank if the discharge is made into an approved facility designed to receive the waste.

(3) Fees. For each permit issued under the provisions of this chapter, an annual service charge therefor shall be paid to the city to be set by ordinance. Any such permit granted shall be for one (1) full 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 non-transferable. The number of the permit granted hereunder shall be plainly painted on each side of each motor vehicle used in the conduct of the business permitted hereunder. All users discharging septic tank or holding tank wastes to the POTW shall pay appropriate fees to be established by ordinance.

(4) Designated disposal locations. The superintendent shall designate approved locations for the emptying ad 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 in his absolute discretion where it appears that the waste could interfere with the effective operation of the POTW.

(5) Revocation of permit. Failure to comply with all the provisions of this chapter shall be sufficient cause for the revocation of the 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 as a septic tank or wastewater or excreta disposal system cleaning unit shall be prima facie evidence that the 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 Dayton. (1988 Code, § 8-322)

18-523. Building sewer permit. No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any POTW or appurtenances thereof without first obtaining a written building sewer permit from the superintendent.

Any residential and commercial user discharging only domestic wastes shall make application for a building sewer permit furnished by the city. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the superintendent. (1988 Code, § 8-323)

18-524. Connections. All costs and expense incident to the installation and connection of the building sewer shall be borne by the customer. The customer shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. Connection to the POTW shall be made only by City of Dayton or its duly authorized agent. The sewer connection and all building sewers, from the building to the POTW, shall be inspected by the superintendent before the underground portion is covered.

A separate and independent building sewer shall be provided for every building, except that where a 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. (1988 Code, § 8-324)

18-525. Installation. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the superintendent, to meet all requirements of this chapter. All others shall be sealed to the specifications of the superintendent.

Building sewers shall be at least four inches in diameter. Larger building sewers shall be used as necessary in order to carry the flow anticipated. Four-inch building sewers shall be laid on a grade of at least 1.0%. 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. Slope and alignment of all building sewers shall be neat and regular. Pipe materials as specified below shall be used. Pipe shall conform to the appropriate ASTM Specification and shall be laid in conformation with the appropriate ASTM specification of the W.P.C.F. Manual of Practice, No. 9.

Building sewers shall be constructed only of (1) concrete or clay sewer pipe using rubber compression joints of approved type; (2) cast-iron soil pipe using rubber compression joints of approved type; (3) polyvinyl-chloride pipe with rubber compression joints; (4) ABS composite sewer pipe with solvent welded or rubber compression joints of approved type; or (5) such other materials of equal or superior quality as may be approved by the superintendent. Under no circumstances will cement mortar joints be acceptable. Each connection to the POTW must be made at a wye, or service line stubbed out, or in the absence of any other provision, by means of a saddle

of a type approved by the superintendent attached to the sewer. No connection may be made by breaking into an existing sewer and inserting the service line.

The building sewer may be brought into the building below the basement floor when gravity flow from the building to the POTW is at a grade of one percent (1%) or more if possible. In cases where basement or floor levels are lower than ground elevation at the point of connection to the POTW, 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 POTW, wastes carried by the building drain shall be lifted by an approved means and discharged to the building at the expense of the owner.

No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to the POTW.

The connection of the building sewer into the POTW shall conform to the rules and regulations the city may establish and the procedures set forth in appropriate specifications of the ASTM and the WPCF Manual of Practice, No. 9. All such connections shall be made gastight and watertight. Any deviation for the prescribed procedures and materials must be approved by the superintendent before installation. The applicant for the building sewer permit shall notify the superintendent when the building sewer is ready for inspection and connection to the POTW. The connection shall be made under the supervision of the superintendent or his representative.

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.

Each individual property owner or user of the POTW shall be entirely responsible for the maintenance of the building sewer located on private property. This maintenance shall include repair or replacement of the service line as deemed necessary by the superintendent to meet specification of the city. (1988 Code, § 8-325)

18-526. Pretreatment enforcement--procedure, complaints, orders. (1) Non-emergency violations. (a) Whenever the local administrative officer of any pretreatment agency has reason to believe that a violation of any provisions of the pretreatment program of the pretreatment agency or orders of the local hearing authority issued pursuant thereto has occurred, is occurring, or is about to occur, the local administrative officer may cause a written complaint to be served upon the alleged violator or violators.

(b) The complaint shall specify the provision or provisions of the pretreatment program or order alleged to be violated or about to be

violated, the facts alleged to constitute a violation thereof, may order that necessary corrective action be taken within a reasonable time to be prescribed in such order, and shall inform the violators of the opportunity for a hearing before the local hearing authority.

(c) 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 § 18-527, no later than thirty (30) days after the date such order is served; provided, however, that the local hearing authority may review such final order on the same grounds upon which a court of the state may review default judgments.

(2) Emergency procedure. (a) 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 facilities of the publicly owned treatment works of the pretreatment agency, 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.

(b) If the violator fails to respond or is unable to respond to the local administrative officer's order, the local administrative officer may take such emergency actions as he deems necessary, or contract with a qualified person or persons to carry out the emergency measures. The local administrative officer may assist the person or persons responsible for the emergency condition for actual cost incurred by the local administrative officer in meeting the emergency.

(3) Service of process. Except as otherwise expressly provided, any notice, complaint, order or other instrument issued by or under authority of this part may be served on any person affected thereby personally, by the local administrative officer or any person designated by him, or such service may be made in accordance with Tennessee statutes authorizing service of process in civil actions. Proof of service shall be filed in the office of the local administrative officer. (1988 Code, § 8-326)

18-527. Pretreatment enforcement--hearings. (1) Any hearing or rehearing brought before the local hearing authority shall be conducted in accordance with the following:

(a) Upon receipt of a written petition from the alleged violator pursuant to this section, the local administrative officer shall give the petitioner thirty (30) days written notice of the time and place of the hearing, but in no case shall such hearing be held more than sixty (60)

days from the receipt of the written petition, unless the local administrative officer and the petitioner agree to a postponement.

(b) 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.

(c) A verbatim record of the proceedings of such hearing shall be taken and filed with the local hearing authority, together with the findings of fact and conclusions of law made pursuant to subdivision (f) of this subsection. The transcript so recorded shall be made available to the petitioner or any party to a hearing upon payment of a charge set by the local administrative officer to cover the costs of preparation.

(d) In connection with the hearing, the chairman shall issue subpoenas in response to any reasonable request by any party to the hearing requiring the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing. In case of contumacy or refusal to obey a notice of hearing or subpoena issued under this section, the chancery court of the county in which pretreatment agency is located shall have jurisdiction upon the application of the local hearing authority or the local administrative officer to issue an order requiring such person to appear and testify or produce evidence as the case may require and any failure to obey such order of the court may be punished by such court as contempt thereof.

(e) Any member of the local hearing authority may administer oaths and examine witnesses.

(f) 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 decision and orders to the alleged violator. The order issued under this subsection shall be issued no later than thirty (30) days following the close of the hearing by the person or persons designated by the chairman.

(g) The decision of the local hearing authority shall become final and binding on all parties unless appealed to the courts as provided in subsection (2).

(h) Any person to whom an emergency order is directed pursuant to § 18-526 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.

(2) 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. (1988 Code, § 8-327)

18-528. Pretreatment enforcement--violations civil penalties.

(1) 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 ($10,000.00) dollars per day for each day during which the act or omission continues or occurs:

(a) Violates any effluent standard or limitation imposed by a pretreatment program;

(b) Violates the terms or conditions of a permit issued pursuant to a pretreatment program;

(c) Fails to complete a filing requirement of a pretreatment program;

(d) Fails to allow or perform an entry, inspection, monitoring or reporting requirement of a pretreatment program;

(e) Fails to pay user or cost recovery charges imposed by a pretreatment program; or

(f) Violates a final determination or order of the local hearing authority or the local administrative officer.

(2) 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 his objection 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 local administrative officer's assessment, the local administrative officer may apply to the appropriate court for a judgement 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:

(i) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;

(ii) 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;

(iii) Cause of the discharge or violation.

(iv) 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;

(v) Effectiveness of action taken by the violator to cease the violation;

(vi) The technical and economic reasonableness of reducing or eliminating the discharge; and

(vii) 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.

(3) 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.

(4) Any civil penalty assessed to a violator pursuant to this section may be in addition to nay civil penalty assessed by the commissioner for violation of Tennessee Code Annotated, § 69-3-115 (a)(1)(F). Provided, 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.;00) per day for each day during which the act or omission continues or occurs. The state's share of any additional costs of this section shall be funded in accordance with Tennessee Code Annotated, § 9-6-303 from the increase in state imposed taxes which are earmarked to counties and which are not designated by such counties for a particular purpose. (1988 Code, § 8-328)

18-529. Pretreatment enforcement--assessment for noncompliance with program permits or orders. (1) The local administrative officer may assess the liability of any polluter or violator for damages to the pretreatment agency 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 § 18-526, § 18-527 or § 18-528.

(2) 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, he shall be deemed to have consented to such assessment and it shall become final.

(3) Damages may include any expenses incurred in investigating and enforcing the pretreatment program or §§ 18-526 through 18-532 in removing, correcting, and terminating any pollution, and also compensation for any actual damages caused by the pollution or violation.

(4) 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. (1988 Code, § 8-329)

18-530. Pretreatment enforcement--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, 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. (1988 Code, § 8-330)

18-531. Pretreatment enforcement--expenditures. Any net increase in expenditures after subtracting out net gains from penalties and damage payments received by a local governmental entity, pursuant to §§ 18-526 through 18-532 shall be borne equally by the local governmental entity and by the Department of Health and Environment. The local governmental entity shall document and verify its expenditures before receiving reimbursement from the Department of Health and Environment. (1988 Code, § 8-331)

18-532. Disposition of damage payments and penalties. All damages and/or penalties assessed and collected under the provisions of §§ 18-526 through 18-532 shall be placed in a special fund by the pretreatment agency and allocated and appropriated to the pretreatment agency by the administration of its pretreatment program. (1988 Code, § 8-332)

CHAPTER 6

CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.[1]

SECTION

18-601. Definitions. The following definitions and terms shall apply in the interpretation and enforcement of this chapter:

(1) "Auxiliary intake." Any piping connection or other device whereby water may be secured from a source other than that normally used.

(2) "Bypass." Any system of piping or other arrangement whereby the water may be diverted around any part or portion of a water purification plant.

(3) "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;

(4) "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 that contains or may contain imparting sewage or other waste or liquid which would be capable of imparting contamination to the public water supply.

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[1]The regulation in this chapter are recommended by the Tennessee Department of Health and Environment for adoption by cities.

Municipal code references

Plumbing code: title 12.

(5) "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.

(6) "Public water supply." The waterworks system furnishing water to the City of Dayton for general use and which is recognized as the public water supply by the Tennessee Department of Health and Environment. (1988 Code, § 8-401)

18-602. Standards. The Dayton Public Water Supply is to comply with Tennessee Code Annotated, §§ 68-13-101 and 68-13-104 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. (1988 Code, § 8-402)

18-603. 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 Public Health, and its operation is at all times under the direct supervision of the superintendent of the water department of the City of Dayton. (1988 Code, § 8-403)

18-604. Statement required. Any person whose premises are supplied with water from the public water supply and who also has on the same premises a separate source of water supply, or stores water in an uncovered or unsanitary storage reservoir from which the water stored therein is circulated through a piping system shall file with the superintendent of the water department of the City of Dayton a statement of the non-existence of unapproved or unauthorized cross connections, auxiliary intakes, bypasses, or interconnections. The statement shall also contain an agreement that no cross connection, auxiliary intake, bypass, or interconnection will be permitted upon the premises. (1988 Code, § 8-404)

18-605. Inspections required. It shall be the duty of the Dayton public water supply to cause inspections to be made of all properties served by the public water supply where cross connections with the public water supply are deemed possible. The frequency of inspections and reinspection, based on potential health hazards involved, shall be established by the superintendent of the water department of the City of Dayton and as approved by the Tennessee Department of Health and Environment. (1988 Code, § 8-405)

18-606. Right of entry for inspections. The superintendent of the water department or his authorized representative shall have the right to enter,

at any reasonable time, any property served by a connection to the City of Dayton 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 this information or refusal of access, when requested, shall be deemed evidence of the presence of cross connections. (1988 Code, § 8-406)

18-607. 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 superintendent of the water department of the City of Dayton.

The failure to correct conditions threatening the safety of the public water system as prohibited by this chapter and the Tennessee Code Annotated, § 68-13-104, within a reasonable time and within the time limits set by the superintendent shall be grounds for denial of water service. If proper protection has not been provided after a reasonable time, the 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. (1988 Code, § 8-407)

18-608. Use of protective devices. Where the nature of use of the water supplied a premises by the water department is such that it is deemed

(1) Impractical to provide an effective air-gap separation;

(2) That the owner and/or occupant of the premises cannot, or is not willing, to demonstrate to the official in charge of the system , 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; or

(4) There is a likelihood that protective measures may be subverted, altered, or disconnected, the superintendent of the water department of the City of Dayton, 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 reduced pressure zone type backflow preventers approved by the Tennessee Department of Health and Environment as to manufacture, model, and size. The method of installation of backflow protective devices shall be approved by the superintendent of the water department of the City of Dayton prior to installation and shall comply with the criteria set forth by the Tennessee Department of Health and Environment. The installation shall be at the expense of the owner or occupant of the premises.

The department may inspect and test the device or devices on an annual basis or whenever deemed necessary by the superintendent of the water department or his designated representative. Water service shall not be disrupted to test the device without the knowledge of the occupant of the premises.

Where the use of water is critical to the continuance of normal operations or protection of life, property, or equipment, duplicate units shall be provided to avoid the necessity of discontinuing water service to test or repair the protective device or devices. Where it is found that only one unit has been installed and the continuance of service is critical, the superintendent of the water department 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 system 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. These repairs shall be made by qualified personnel acceptable to the superintendent of the water department of the City of Dayton. (1988 Code, § 8-408)

18-609. Unpotable water to be labeled. 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 that 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

Minimum acceptable sign shall have black letters at least one-inch high located on a red background. (1988 Code, § 8-409)

18-610. Violations. Any person who neglects or refuses to comply with any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction therefor, shall be fined in accordance with the general penalty clause and each day of continued violation after conviction shall constitute a separate offense. In addition to the foregoing fines and penalties, the superintendent of the water department of the City of Dayton shall discontinue the public water supply service at any premises upon which there is found to be a cross connection, auxiliary intake, bypass, or interconnection, and service shall not be restored until the cross connection, auxiliary intake, bypass, or interconnection has been discontinued. (1988 Code, § 8-410)

CHAPTER 7

LOW PRESSURE SEWER EXTENSIONS INSIDE AND OUTSIDE THE CITY LIMITS OF DAYTON

SECTION

18-701. Use of system regulated. (1) All persons using, desiring, or required to use or connect to the City of Dayton sanitary sewer system shall comply with the requirements as set forth in chapter 2, sewers, and chapter 3, water and sewer extensions outside city, of title 18, water and sewers, of the Dayton Municipal Code, as amended, excepting §§ 18-205, 18-206, 18-306, 18-307, 18-309, 18-310, and 19-310, in addition to complying with the requirements as set forth in this chapter. In the event of a conflict with the requirements of this chapter 7 and chapters 2 and 3, then the provisions and requirements of this chapter shall govern. The installation required to connect to the City of Dayton force main sanitary sewer system consists of a grinder pump and a low pressure force main constituting a service connection.

(2) All persons using, desiring, or required to use or connect to the City of Dayton sanitary sewer system by means of low pressure pump for a residence shall be required to use and install an E-ONE grinder pump prior to the connection to the force main sewer system.

(3) All installations of the E-ONE grinder pump shall be the responsibility of the customer using, desiring or required to use or connect to the City of Dayton sanitary sewer system and all installations of the E-ONE grinder pump shall be performed by a licensed plumber at the customer's expense. Additionally, the customer shall be responsible for the installation of the service line to the city's sewer main and the installation of the service line shall be performed by a licensed plumber at the customer's expense. All necessary

electrical wiring shall be the responsibility of the customer and shall be performed by a licensed electrician and inspected in accordance with the rules and regulations as set forth in title 19, of the Dayton Municipal Code, as amended.

(4) For commercial establishments or businesses, the proposed customer shall submit complete information for engineering analysis of the requirements. The City of Dayton shall set fees on a case-by-case basis.

(5) Persons or commercial establishments or businesses without City of Dayton water service shall not be eligible for connection to the sanitary sewer system by any means. (as added by Ord. #483, March 2007)

18-702. Inspections of the low pressure sewer. (1) The customer shall permit and allow the City of Dayton and its agents and employees access to inspect the grinder pump and low pressure force main after installation. Additionally, the customer shall allow the City of Dayton and its agents and employees to inspect the grinder pump through a minimum of two (2) cycles.

(2) Should the City of Dayton or its agents and employees determine that the grinder pump or the low pressure force main has not been installed properly or is not working properly, then the customer shall not be allowed to connect to the sanitary sewer system until said deficiencies are corrected to the satisfaction of the City of Dayton. (as added by Ord. #483, March 2007)

18-703. Maintenance of the grinder pumps. (1) The City of Dayton shall maintain the grinder pumps during the normal, operating business hours of city hall, specifically Monday through Friday from 8:00 o'clock A.M. EST to 4:00 o'clock P.M. EST, at no extra charge to the customer.

(2) The City of Dayton shall charge the customer an extra charge for all service and maintenance on the grinder pumps performed after the normal, operating business hours of city hall as set forth above, and for service and maintenance performed during holidays or on weekends. Said extra charge shall be one hundred dollars ($100.00) per service call.

(3) The customer shall be responsible for the costs of all electrical repairs made to the grinder pumps. All electrical repairs to the grinder pump shall be made by a licensed electrician. (as added by Ord. #483, March 2007, and replaced by Ord. #671, Aug. 2022 ***Ch8_12-04-23***)

18-704. Connection charges. Before the customer connects to the city's sanitary sewer system, the customer shall pay to the City of Dayton a sewer tap fee of five thousand dollars ($5,000.00). Upon payment of the sewer tap fee, the City of Dayton shall furnish the customer with an E-ONE grinder pump and provide a point for connection to the city's sewer line. Customers requiring a duplex E-ONE grinder pump system shall pay cost of unit plus one thousand

five hundred ($1,500.00) (supplies and tap fee). (as added by Ord. #483, March 2007, and replaced by Ord. #671, Aug. 2022 ***Ch8_12-04-23***)

18-705. Right to enter. The customer shall grant the City of Dayton, its agents and employees, the right to enter upon the customer's property and premises to inspect, maintain and repair the grinder pump system. (as added by Ord. #483, March 2007)

18-706. Easements. All service lines and grinder pump systems shall be constructed within a public right-of-way or in an easement across the customer's property which is granted upon application for said low pressure connection. Said easement shall provide in addition that the City of Dayton has permanent ingress and egress to the grinder pump for as long as it is in service. All easements shall be a minimum of ten (10) feet wide. Easements within a subdivision shall be shown and identified on the dedication plat. All other easements shall be shown on the contract drawings and with a legal description that shall be recorded by the developer at the time the plat is recorded. (as added by Ord. #483, March 2007)

18-707. Repairs due to the customer's negligence. The customer shall be responsible for reimbursing the city the cost of materials, labor and equipment required to repair any components of the grinder pump system which are damaged or destroyed as a direct result of the customer's negligence. (as added by Ord. #483, March 2007)

18-708. Customer's other responsibilities. (1) The customer shall not construct any structure or other permanent improvement that would prevent or hinder the City of Dayton from maintaining or repairing the grinder pump system.

(2) The customer shall not make any alterations, modifications, or changes to the grinder pump system after its inspection and approval by the City of Dayton without the prior written consent of the City of Dayton. Further, any alterations, modifications, or changes to the grinder pump system that are approved by the City of Dayton shall be made at the customer's expense. Any unauthorized alterations, modifications, or changes to the grinder pump system shall result in the city disconnecting service. (as added by Ord. #483, March 2007)

18-709. Billing. A copy of the current applicable rates may be obtained at the Dayton City Hall and an effort will be made to notify customers of any rate changes either by public media or mail. Bills for residential service will be rendered monthly. Bills for commercial and industrial service shall be monthly.

Sewer bills must be paid on or before the discount date shown thereon to

obtain the net rate; otherwise, the gross rate shall apply. Failure to receive a bill will not release a customer from payment obligation, nor extend the discount date.

In the event a bill is not paid on or before five (5) days after the discount date, a written notice shall be mailed to the customer. The notice shall advise the customer that his/her service may be discontinued without further notice if the bill is not paid on or before ten (10) days after the discount date. The city shall not be liable for any damages resulting from discontinuing service under the provisions of this section, even though payment of the bill is made at any time on the day that service is actually discontinued.

Should the final date of payment of bill at the net rate fall on Sunday or a holiday, the business day next following the final date will be the last day to obtain the net rate. A net remittance received by mail after the time limit for payment at the net rate will be accepted by the city if the envelope is date-stamped on or before the final date for payment of the net amount. (as added by Ord. #483, March 2007)

18-710. Dispute of bill. In case of a disputed bill, the customer may request in writing a hearing within fifteen (15) days from the date of receipt of bill before the city manager or any other officer duly appointed by the Dayton City Council. The hearing officer will hear all evidence and complaints and render a written decision. The hearing shall be scheduled as soon as possible but not later than thirty (30) days from the date of the written request. If the customer is dissatisfied with the decision of the hearing officer, an appeal may be perfected within ten (10) days from the date of the rendering of the written decision with the appeal to be directed to the city council who shall hear the evidence and render a decision. The customer's service will not be terminated until an appropriate decision is reached as herein stated. (as added by Ord. #483, March 2007)

18-711. 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 the 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 service to be discontinued may be required; and the city may continue the service for a period of not to exceed ten (10) days after receipt of the written notice, during which

time the customer shall be responsible for all charges for such service. If the city should continue service after the 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, or thereafter, the occupant of premises to which service has been ordered discontinued by a customer other than the 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. (as added by Ord. #483, March 2007)

18-712. Discontinuance or refusal of service. The city manager may discontinue service or refuse to connect service for a violation of, or a failure to comply with, any of the following:

(1) These rules and regulations.

(2) The customer's application for service.

(3) The customer's contract for service.

This right to discontinue service shall apply to all service received through a single connection or service, even though more than one customer or tenant is furnished service therefrom, and even though the delinquency or violation is limited to only one such customer or tenant.

The city shall have the right to refuse to render service to any applicant whenever the applicant or any member of the household, company or firm to which such service is to be furnished is in default in the payment of any obligation to the city or has theretofore had his/her service disconnected because of a violation of the rules and regulations of the board.

Discontinuance of service by the city for any cause stated in these rules and regulations shall not release the customer from liability for service already received or from liability for payments that thereafter become due under other provisions of the customer's contract.

No service shall be discontinued unless the customer is given notice in writing at least ten (10) days prior to the date of such impending action and the reason thereof. The city representative shall not be responsible for giving notice to any residence where service has been discontinued within the previous four (4) years. Termination of utility service will not be made on any day preceding a day when the Dayton municipal building is scheduled to be closed.

In regard to the discontinuance of service the following exceptions will be made: (1) proven hardship cases, i.e., death in immediate family, sickness, etc.; (2) accounts in question as to the validity of the amount of bill; (3) accounts that are extremely abnormal for reasons such as bad weather, equipment malfunctions, providing substantial payments are being made on bill; and (4)

accounts that have been approved for payment by governmental agencies or charitable organizations.

The customer shall also be notified of his/her right to a hearing prior to disconnection if he disputes the reason thereof and requests the hearing by the date specified in the notice. When a hearing is requested, the customer may have a representative at the hearing and may testify and present witnesses on his/her behalf. Also, when a hearing has been requested, the customer's service shall not be terminated until a final decision is reached by the hearing officer and the customer is notified on that decision. (as added by Ord. #483, March 2007)

18-713. Reconnection charges. (1) Whenever service has been discontinued by the city as provided for herein and before service is restored to any customer, a reconnection fee of thirty dollars ($30.00) shall be charged and collected by the city from those customers making a request for reconnection before 1:00 o'clock PM EST.

(2) Whenever service has been discontinued by the city as provided for herein and before service is restored to any customer, a reconnection fee of sixty dollars ($60.00) shall be charged and collected by the city from those customers making a request for reconnection after 1:00 o'clock PM EST.

(3) A service charge of twenty dollars ($20.00) shall be charged for all returned checks.

(4) Any customer that has altered, modified, changed or tampered with a grinder pump shall pay to the city a fee in the amount of two hundred fifty dollars ($250.00) before service is restored.

(5) The city may refuse to connect or may disconnect service for the violation of any of its ordinances, rules and regulations. (as added by Ord. #483, March 2007)

18-714. Service charge for returned checks and disconnection. A service charge of twenty dollars ($20.00) shall be charged for all returned checks. Service shall be terminated if the check is not paid within ten (10) days after appropriate notification to the customer that the check has returned at the address of the service. If service is terminated, the same reconnection fee shall apply as those of non-payment termination. (as added by Ord. #483, March 2007)

TITLE 19

ELECTRICITY AND GAS

CHAPTER

CHAPTER 1

ELECTRICITY[1]

SECTION

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[1]Municipal code references
Electrical code: title 12, chapter 5.
Fire code: title 7, chapter 2.

19-101. Application for service. (1) Each prospective customer desiring electric service shall enter into a contract for service with the city, post a deposit or acceptable guarantor's agreement and pay the service connection charge. Each customer shall provide two (2) proofs of identity and the city may make a credit investigation. Service will not be supplied to any applicant who is then indebted to the city, until paid in full or acceptable payment arrangements are agreed upon.

(2) Upon each application, the customer will be requested to complete an electronic contact form. This information will allow the city to notify customers of disconnection and termination of services. In the near future, it will allow the customer to log-in to customer portals, to check usage and participate in pre-pay, if so desired. (1988 Code, § 13-401, as replaced by Ord. #578, Dec. 2015)

19-102. Deposits. (1) Residential. A deposit not exceeding twice the highest estimated monthly bill or suitable guarantor's agreement may be required of any customer. The city may obtain a credit report from an approved credit bureau. Interest at the rate paid for passbook savings accounts within Dayton, Tennessee shall accrue on all deposits and is paid annually or at the time the deposit is refunded. The deposit balance (including earned interest) as well as the adequacy of such deposit shall be subject to review by the customer and the city. The deposit balance plus any accrued interest will be credited to the customer's unpaid bills upon termination of electric service or upon the return of the deposit to the customer. The city shall have the right of recoupment and/or to off-set deposits against any electric account of the customer. A residential deposit may be refunded after twenty-four (24) consecutive months in which all payments were made on or before the due date, and no payments were rejected or declined by the customer's financial institution. If any of these incidents have occurred during the past twenty-four (24) consecutive months of service, the deposit will remain with the city until the customer has completed twenty-four (24) consecutive months of good credit. A pre-pay customer may not be required to pay a deposit.

(2) Commercial. For commercial customers, the deposit shall be two (2) times the highest previous bill. When there is no billing history, the deposit shall be calculated by the electric engineering department based on like size businesses or forecasted load. The deposit shall be paid in the form of cash, a certificate of deposit made out in the City of Dayton's name, a surety bond or an irrevocable letter of credit. There shall be no refund of deposit until the close of the account. Interest of passbook rate will be paid, adjusted and credited annually to commercial accounts. (1988 Code, § 13-402, as replaced by Ord. #572, April 2015, and Ord. #578, Dec. 2015)

19-103. Point of delivery. The point of delivery is the point, as designated by the city, on the customer's premises, where current is to be delivered. All wiring and equipment beyond this point of delivery shall be provided and maintained by the customer at no expense to the city. Point of delivery is further defined as that point where obligation ends for the city to furnish and install conductor, and where obligation begins for the customer to furnish and install conductor. (1988 Code, § 13-403, as replaced by Ord. #578, Dec. 2015)

19-104. Customer's wiring standards. All wiring of the customer must comply with standards set forth by the National Safety Code, the State of Tennessee Division of Fire Prevention, or by local city or county codes, as may be amended from time to time. The National Electric Code is superseded by the state or local codes if it is not as stringent, but in all cases is the minimum acceptable standard. All meter locations, for both overhead and underground services, must be approved by the designated representative of the city. The city shall not be obligated to provide protective equipment for the customer's lines, facilities, or equipment, and the customer shall provide such protective equipment as necessary for the protection of its own property and operations. (1988 Code, § 13-404, as replaced by Ord. #578, Dec. 2015)

19-105. Inspections. The city will install electrical services only after a satisfactory inspection has been performed by an authorized representative of the State of Tennessee. However, such inspections or failure to inspect or reject shall not render the city liable or responsible for any loss incurred or from property damages resulting from defects in the installation, wiring, or appliances, or from violation of the city's rules or ordinances, or from accidents which may occur upon customer's premises. For any electrical service that has been removed for a period of greater than twelve (12) months, the customer shall be required to obtain an electrical inspection before service will be reconnected. (1988 Code, § 13-405, as replaced by Ord. #578, Dec. 2015)

19-106. Underground service lines. Customers desiring underground service lines from the city must bear the excess cost incident thereto. Specifications and terms for such construction will be furnished by the city on request. The city shall have no responsibility for damage to the property of the customer or others following any installation or maintenance work on underground service lines. Customers desiring underground service lines from the city, when necessary, shall grant the City of Dayton a permanent and temporary easement for the installation, construction, maintenance and operation of said underground service lines at no cost to the City of Dayton. (1988 Code, § 13-406, as replaced by Ord. #578, Dec. 2015)

19-107. Customer's responsibility for city's property. (1) All meters, service connections, and other equipment furnished by the city shall be, and remain, the property of the city. The customer shall provide a space for and exercise proper care to protect the property of the city on it premises, and, in the event of loss or damage to the city's property arising from the neglect of the customer to care for it, the cost of the necessary repairs or replacements shall be paid by the customer.

(2) Customer shall control new and existing trees and shrubbery and placement of obstructions so as to prevent interference with utility lines and other city facilities. In the event city property, utility lines or other city facilities are interfered with, the city reserves the right to trim or remove said obstructions. Further, in the event city property, utility lines or other city facilities are interfered with, impaired in their operation or damaged by the customer, or by any other person when the customer's reasonable care and surveillance could have prevented such, the customer shall indemnify the city or any other person against death, injury, loss or damage resulting therefrom, including but not limited to, the cost of repairing, replacing or relocating any such city property, utility lines or other city facilities.

(3) In the event city property, utility lines or other city facilities are entered into, or tampered with in such a manner as to allow any service to be illegally consumed or the measurement of that usage to be impaired, a three hundred dollar ($300.00) charge will be assessed to the customer of record and/or the occupant of the property where such tampering occurred. In addition, such customer of record and/or occupant shall indemnify the city for its estimated loss of revenue, if any, resulting therefrom. Furthermore, the city reserves the right to pursue criminal charges for theft of services. (1988 Code, § 13-407, as replaced by Ord. #578, Dec. 2015)

19-108. Right of access. The city's identified employees shall have access to the customer's premises at all reasonable times for the purpose of reading meters, testing, repairing, removing, or exchanging any or all equipment belonging to the city. The city may, at its discretion, utilize or upgrade existing facilities on customer's property for the additional purpose of serving other properties. (1988 Code, § 13-408, as replaced by Ord. #578, Dec. 2015)

19-109. Billing. A copy of the current applicable rates may be obtained at the Dayton City Hall and an effort will be made to notify customers of any rate changes either by public media or mail. Bills will be rendered monthly and shall be paid within fifteen (15) days from the date on the bill. Bills that are paid after the due date on the billing statement provided shall be subject to an additional charge of five percent (5%) for all bills in the amount of five hundred dollars ($500.00) or less and an additional one percent (1%) shall be charged on that portion of the bill over five hundred dollars ($500.00).

Failure to receive a bill will not release a customer from its payment obligations. Should bills not be paid by the due date specified on the bill, service

may be disconnected as set out in the rules and regulations contained herein. Should the due date fall on a weekend or holiday, the next business day following the due date will be held as a day of grace for payment to be received. Payments made after the due date will not be subject to additional charges if their remittance envelope bears the United States Postal Service date stamp of the due date or any date prior. (1988 Code, § 13-409, as replaced by Ord. #578, Dec. 2015, and Ord. #602, Nov. 2017)

19-110. Discontinuance of service by the city and right of hearing.

(1) The city shall have the right to refuse to render service to any applicant whenever the applicant to which such service is to be furnished is in default in the payment of any obligation to the city or has had his/her service disconnected because of a violation of the rules and regulations contained herein. Discontinuance of service by the city for any causes stated in these rules and regulations shall not release the customer from liability for service already received or from liability for payments that thereafter become due under the minimum bill provisions or other provisions of the customer's contract.

(2) The city shall have the right to discontinue any service for the violation of any of the rules and regulations contained herein. The city may discontinue any service to the customer for theft of services or the appearance of theft devices on the customer's premises. Any and/or all services will be discontinued to customers with past due accounts. For past due accounts, payment in full will be required and an additional deposit may be required before service will be restored.

(3) No service shall be discontinued unless the customer is given notice in writing (including electronic notification or door hanger) at least ten (10) days prior to the date of such impeding action and the reason therefore. All written notices will provide the customer with telephone numbers for customer service inquiries.

(4) The city evaluates weather conditions daily at www.weather.com for Dayton, Tennessee 37321. In the event that the forecasted temperature is expected to exceed ninety-eight degrees Fahrenheit (98°F) or is expected to be below thirty-two degrees Fahrenheit (32°F) on that day, the city will not discontinue service of residential customers for nonpayment. During such events where service is extended due to weather conditions, the service extension shall not extend past the extreme weather condition or past the customer's next due date, whichever date comes first.

(5) It is the customer's responsibility to request from the city a thirty (30) day medical certification form. Upon approval of the city's medical certification form, disconnection of service will be postponed for thirty (30) days from the original scheduled disconnection date to allow customer time to make payment or alternative shelter arrangements. The medical certification form must be completed by a medical doctor or nurse practitioner licensed to practice in the State of Tennessee certifying that the disconnection of electric service would create a life threatening medical situation for the customer or other

permanent resident of the customer's household. It is the responsibility of the customer to ensure that the form has been approved by the city. A life threatening medical condition does not relieve a customer of the obligation to pay for electric service, including any late fees incurred or other applicable charges. The city will only grant this postponement for termination two (2) times in a twelve (12) month period. If full payment of the past due amount, including all late fees, is not received by the end of the thirty (30) day postponement period, electric service will be disconnected without further notice.

(6) The customer shall also be notified of his right to a hearing prior to the disconnection if be disputes the reason therefor and requests a hearing by the date specified in the notice. When a hearing is requested, the customer may have a representative at the hearing and shall be entitled to testify and to present witnesses on his behalf. Also, when a hearing has been requested, the customer's service shall not be terminated until a final decision is reached by the hearing officer and the customer is notified of that decision. (1988 Code, § 13-410, as replaced by Ord. #578, Dec. 2015)

19-111. Service charges. (1) All connections for new service, transfers of service or reconnections of terminated service will require a payment of thirty dollars ($30.00). In addition, the customer shall pay all delinquent amounts, trip charges and deposits prior to being connected for new service, transfer of service or reconnections of terminated service. If, at the customer's request, the connection is made after regular work hours (after work hours being before 8:00 AM EST, after 5:00 PM EST and on weekends and holidays), the charge will be sixty dollars ($60.00).

(2) Trip charge. If a trip is made to disconnect a delinquent account, there will be a twenty-five dollar ($25.00) charge for each such trip. In the event a customer causes the city to make an unnecessary service call at the customer's premises, the city reserves the right to charge the customer with the reasonable cost associated with the trip.

(3) Payment rejection charges. There will be a twenty-five dollar ($25.00) charge for each check returned to the city and for each presented payment rejected or declined by the customer's financial institution. Service shall be terminated if the check is not paid within ten (10) days after appropriate notification to the customer that the check has been returned at the address of the service. If the service is terminated, the same reconnection fees shall apply as those of nonpayment termination.

(4) Service charges:

Connect fee	$30.00
After hours connect fee	$60.00
Meter test fee	$40.00
Meter tampering fee	$300.00
Reconnect fee	$30.00

Returned check fee	$25.00
Temporary/new meter set fee	$35.00
Trip charge	$25.00

(1988 Code, § 13-411, as replaced by Ord. #454, Oct. 2004, and Ord. #578, Dec. 2015)

19-112. Termination of contract 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 their contract specifies otherwise. Notice to discontinue service prior to the expiration of the contract term will not relieve a customer from any minimum or guaranteed payment under any contract or rate. (1988 Code, § 13-412, as replaced by Ord. #578, Dec. 2015)

19-113. Service charges for temporary service. Customers requiring electric service on a temporary basis may be required by the city to pay all costs for connection and disconnection incidental to the supplying and removing of service. This rule applies to circuses, carnivals, fairs, temporary construction, and the like. (1988 Code, § 13-413, as replaced by Ord. #578, Dec. 2015)

19-114. Interruption of service. The city will use reasonable diligence in supplying electric power service but shall not be liable for loss, injury, or damage to person or property or for breach of contract resulting from interruptions in service, excessive or inadequate voltage, single phasing or otherwise unsatisfactory service, whether or not caused by negligence. (1988 Code, § 13-414, as replaced by Ord. #578, Dec. 2015)

19-115. Voltage fluctuations caused by customer. Electric service must not be used in such a manner as to cause unusual fluctuations or disturbances to the city's system. The city may require any customer, at customer's own expense, to install suitable apparatus that will reasonably limit such fluctuations. (1988 Code, § 13-415, as replaced by Ord. #578, Dec. 2015)

19-116. Additional load. The service connection, transformers, meters, and equipment supplied by the city for each customer have a definite capacity, and no addition to the equipment or load connected thereto will be allowed except by consent of the city. Failure to give notice of additions or changes in load, and to obtain the city's consent for same, shall render a customer liable for any damage to any of the city's lines or equipment caused by the additional or changed installation. (1988 Code, § 13-416, as replaced by Ord. #578, Dec. 2015)

19-117. Standby and resale service. All purchased electric service (other than emergency or standby service) used on the premises of a customer

shall be supplied exclusively by the city, and the customer shall not, directly or indirectly, sell, sublet, assign, or otherwise dispose of the electric service or any part thereof. (1988 Code, § 13-417, as replaced by Ord. #578, Dec. 2015)

19-118. Notice of trouble. Customers shall notify the city immediately should the service be unsatisfactory for any reason, or should there be any defects, trouble, or accidents affecting the supply of electricity. Such notices, if verbal, should be confirmed in writing. (1988 Code, § 13-418, as replaced by Ord. #578, Dec. 2015)

19-119. Non-standard service. The customer shall pay the cost of any special installation necessary to meet his particular requirements for service at other than standard voltages, or for the supply of closer voltage regulation than required by standard practice. (1988 Code, § 13-419, as replaced by Ord. #578, Dec. 2015)

19-120. Meter tests. The city will, at its own expense, make periodic tests and inspections of its meters to maintain a high standard of accuracy. The city will make additional tests or inspections of its meters at the request of the customer for a fee of forty dollars ($40.00). If tests made at a customer's request show that the meter is accurate within two percent (2%) slow or fast, no adjustment will be made in the customer's bill. In case the test shows the meter to be in excess of two percent (2%) fast or slow, an adjustment shall be made in the customer's bill over a period not to exceed sixty (60) days prior to the date of such test, and the cost of making the test shall be covered by the city. (1988 Code, § 13-420, as replaced by Ord. #578, Dec. 2015)

19-121. Extensions and additions to street lighting facilities.

(1) The city shall supply, install, and maintain the light fixture, all the equipment pertaining to the fixture, and furnish electrical energy to the customer. The city shall, at the request of the customer, relocate or change existing city owned equipment. The customer shall pay the city for such installations and changes at the actual cost including appropriate overhead.

(2) At a customer's request for street lighting service in the city limits of Dayton, Tennessee, the city manager will evaluate the necessity and the benefits of the light. If a customer desires extensions or additions to the street lighting circuits that will not benefit city residents, the customer shall adhere to the city's outdoor lighting regulations and rules. (1988 Code, § 13-421, as replaced by Ord. #578, Dec. 2015)

19-122. Billing adjusted to standard periods. The customer charges and the energy charges set forth in the schedule of rates and charges are based on billing periods of approximately one (1) month. In the case of the first billing of new accounts (temporary service and other seasonal customers excepted) and

final billing of all accounts (temporary service excepted) where the period covered by the billing involves fractions of a month, the customer charges and the energy charge will be adjusted to a basis proportionate with the period of time during which service is extended. (1988 Code, § 13-422, as replaced by Ord. #578, Dec. 2015)

19-123. Athletic field lighting. Athletic field lighting installations not owned or maintained by the city may be served on an off-peak basis in accordance with the provisions of the street lighting rate. For athletic field lighting, the investment charge provided for in the street lighting rate will be based on the city's investment in furnishing and installing the equipment in accordance with the street lighting schedule and each installation will be considered a separate customer for billing purposes. Customer's bills rendered in accordance with this provision shall be subject to any surcharge and amortization charge applied by the city. The off-peak period shall be determined by the city, but in no case shall it commence earlier than 7:00 P.M. EST. The customer may be permitted to use up to ten percent (10%) (not to exceed ten (10) kilowatts) of the total installed lighting capacity prior to the commencement of the off-peak period, such use to be considered off-peak for billing purposes. In the event a customer fails to restrict service in accordance with these requirements, he shall be billed under the appropriate lighting and power rate. (1988 Code, § 13-423, as replaced by Ord. #578, Dec. 2015)

19-124. Customer's energy use data. Upon request, using procedures established by the city, the city will make available to customers their available energy consumption data for a time period of twelve (12) months. The city will not provide to other parties any customer's individually identifiable energy consumption data or other individually identified customer data collected by the city without the customer's authorization, using authorization procedures established by the city. (1988 Code, § 13-424, as replaced by Ord. #578, Dec. 2015)

19-125. Scope. This chapter is part of all contracts for receiving electric service from the city, and applies to all service received from the city, whether the service is based upon contract, agreement, signed application, or otherwise. A copy of this chapter, together with a copy of the city's schedule of rates and charges, shall be kept open to inspection at the offices of the City of Dayton billing office located at 400 Main Street, Dayton, Tennessee 37321 , or found on our website - www.daytontn.net. The city will provide information regarding rates, service policies, and guidelines to customers via www.daytontn.net and information including brochures and print media will also be available in our offices. A customer will also receive such information at any time upon request. All retail rate action initiated by the city will be communicated to the public via

www.daytontn.net and advertisements in the local newspaper. (1988 Code, § 13-425, as replaced by Ord. #578, Dec. 2015)

19-126. Revisions. The rules and regulations in this chapter may be revised, amended, supplemented, or otherwise changed from time to time, without notice. Such changes, when effective, shall have the same force as the present rules and regulations. (1988 Code, § 13-426, as replaced by Ord. #578, Dec. 2015)

19-127. Dispute of bill. (1) In case of a disputed bill, the customer may request in writing a hearing within fifteen (15) days from date of receipt of bill before the city manager or any other officer duly appointed by the Dayton City Council. The hearing officer will hear all evidence and complaints and render a written decision. The hearing shall be scheduled as soon as possible but not later than thirty (30) days from the date of the written request. If the customer is dissatisfied with the decision of the hearing officer an appeal may be perfected within ten (10) days from the date of the rendering of the written decision with the appeal to be directed to the city council who shall hear the evidence and render a decision. The customer's service will not be terminated until an appropriate decision is reached as herein stated.

(2) In the case of billing disputes or other service issues, the customer is expected to resolve the dispute through the process established by the City of Dayton. However, if the dispute is not resolved through the process set forth above, the City of Dayton will provide the customer with information regarding TVA's Complaint Resolution Process. Customers will be informed about the availability of the TVA Complaint Resolution Process upon application for service, at any time upon request, and through information provided on the City of Dayton's website or other technological means of communication, if available. (1988 Code, § 13-427, as replaced by Ord. #578, Dec. 2015, and Ord. #592, May 2016)

19-128. Conflict. In case of conflict between any provision of any rate schedule and the rules and regulations in this chapter, the rate schedule shall apply. (as added by Ord. #578, Dec. 2015)

CHAPTER 2

GAS[1]

SECTION

19-201. To be furnished by Middle Tennessee Utility District. Gas shall be furnished for the municipality and its inhabitants by the Middle Tennessee Utility District. The rights, powers, duties, and obligations of the municipality, its inhabitants, and the grantee of the franchise are clearly stated in the written franchise ordinance.[2] (1988 Code, § 13-501)

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[1]Municipal code reference
Gas code: title 12.

[2]See Ord. #247 of record in the office of the city recorder.

TITLE 20

MISCELLANEOUS

CHAPTER

CHAPTER 1

FAIR HOUSING CODE

SECTION

20-101. Definitions. Whenever used in this chapter, the following words and terms shall have the following meanings unless the context necessarily requires otherwise:

(1) "Dwelling" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location of any such building.

(2) "Family" includes a single individual.

(3) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.

(4) "To rent" includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant. (1988 Code, § 4-1101)

20-102. Unlawful discriminatory acts. Subject to the exceptions hereinafter set out, it shall be unlawful for any person to do any of the following acts:

(1) To refuse to sell or rent after the making of a bona fide offer to do so or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny a dwelling to any person because of race, color, religion, national origin, or sex.

(2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection herewith, because of race, color, religion, national origin, or sex.

(3) To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, national origin, or sex.

(4) To represent to any person because of race, color, religion, national origin, or sex, that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

(5) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, national origin, or sex. (1988 Code, § 4-1102)

20-103. Limited exemption for religious organizations. Nothing in this chapter shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society from limiting the sale, rental, or occupancy dwelling which it owns or operates for other than commercial purposes to persons of the same religion, or from giving preference to such persons, unless membership in the religion is restricted on account of race, color, national origin, or sex. (1988 Code, § 4-1103)

20-104. Access to multiple listing services, etc. It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization, or other service, organization or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership, or participation on account of race, color, religion, national origin, or sex. (1988 Code, § 4-1104)

20-105. Educational and conciliatory activities. The human relations sub-committee of the citizens advisory committee of Dayton is authorized and directed to undertake such educational and conciliatory activities as in its judgement will further the purposes of this chapter. It may

call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions this chapter and the committee's suggested means of implementing it. The sub-committee shall further endeavor, with the advice of the housing industry and other interested parties, to work out programs of voluntary compliance and may advise appropriate city officials on matters of enforcement. The sub-committee may issue reports on such conferences and consultations as it deems appropriate. (1988 Code, § 4-1105)

20-106. Complaints. Any person who claims to have been injured by an act made unlawful by this chapter, or who claims that he will be injured by such an act, may file a complaint with the chairman of said sub-committee. A complaint shall be filed within 180 days after the alleged unlawful act occurred. Complaints shall be in writing and shall contain such information and be in such form as required by the human relations sub-committee. Upon receipt of a complaint the sub-committee shall promptly investigate it and shall complete its investigation with in thirty (30) days. If a majority of the human relations sub-committee finds reasonable cause to believe that a violation of this chapter has occurred, or if a person charged with violation of this chapter refuses to furnish information to the sub-committee, the sub-committee may request the city attorney to prosecute an action in the city court against the person charged in the complaint. This request shall be in writing.

Upon receiving the written request and with the assistance of the aggrieved person and the sub-committee, within fifteen (15) days after receiving the request, the city attorney shall be prepared to prosecute an action in the city court, provided a warrant is sworn out by the aggrieved person and served upon the person or persons charged with the offense. (1988 Code, § 4-1106)

20-107. Penalty. Any person violating any provision of this chapter shall be guilty of a misdemeanor and upon conviction shall be fined in accordance with the general penalty clause for this code of ordinances. Each day the violation continues shall constitute a separate offense. (1988 Code, § 4-1107)

20-108. Exhaustion of remedies. Nothing in this chapter requires any person claiming to have been injured by an act made unlawful by this chapter to exhaust the remedies provided herein nor prevents any such person from seeking relief at any time under the federal civil rights acts or other applicable legal provisions. (1988 Code, § 4-1108)

CHAPTER 2

CIVIL EMERGENCIES

SECTION

20-201. City manager, mayor, and vice-mayor to have certain powers during civil emergencies. For the purposes of, Tennessee Code Annotated, title 38, chapter 9, the chief administrative officer of the city shall be the city manager or, in his absence or disability, the mayor. In the absence or disability of both the city manger and the mayor and vice-mayor is designated as the chief administrative officer. Any person violating the provisions of orders issued by the chief administrative officer pursuant to Tennessee Code Annotated, title 38, chapter 9, shall be guilty of a misdemeanor and shall be punished under the general penalty clause of this code of ordinances. (1988 Code, § 1-901)

CHAPTER 3

INDUSTRIAL PARK PROPERTY

SECTION
20-301. Sales restricted.

20-301. Sales restricted. The property hereinafter described shall not be granted, conveyed, or otherwise disposed of except by sale to an immediate industrial or commercial user.

The City of Dayton shall not grant, convey, or otherwise dispose of this property for an amount less than the acquisition cost or a pro rata share thereof in the event that less than the entire tract is sold.

This real estate is described as follows:

In the Third Civil District of Rhea County, Tenn., to-wit:

TRACT NO. 1:

BEGINNING on a stake in the North right-of-way line of Walnut Grove Road, corner with La-Z-Boy Chair Company property; thence with the La-Z-Boy Chair Company property lines, as follows: North 43° 24' East 1800 feet, South 46° 36' East 837 feet to a stake in CNO & TP Railroad Right-of-Way; thence with the Railroad-right-of-way North 42° 21' East 1307.8 feet to a stake, corner with Rockholt; thence with the lines of Rockholt, as follows: North 10° 22' West 378 feet, North 39° 16' West 56.2 feet, North 6° 5' East 106.2 feet, North
39° 34' West 1100 feet; thence with other lines of City of Dayton property in a Southwesterly direction to a stake in the North right-of-way line of Walnut Grove said stake being located North 46° 36' West 500 feet from the point of beginning, above described; thence with Walnut Grove Road South 46° 36' East 500 feet to the point of beginning.

Containing 70 acres, more or less.

TRACT NO. 2:

BEGINNING on a stake in the center of Little Richland Creek and in the North right-of-way line of Walnut Grove Road; thence with the center of Little Richland Creek, with the following calls, North 12° 20' East 430 feet, North 30° East 200 feet, North 17° 50' East 470 feet corner with Morgan; thence with the Morgan line North 43° 23' West 471 feet to a stake in the East right-of-way of CNO & TP Railroad; thence with said Railroad right-of-way South 26° 5' West 388 feet, South 23° 20' West 724.5 feet to a stake in the North right-of-way line of Walnut Grove Road; thence with Walnut Grove Road, South 44° 10' East 583 feet to the point of beginning.

The mayor and city recorder are authorized and directed to file with the Register's Office of Rhea County, Tennessee, a certified copy of this provision. (1988 Code, § 1-1001)

CHAPTER 4

NONRESIDENT PROPERTY OWNERS

SECTION

20-401. Absentee voting for voters registered as nonresident property owners. Pursuant to Tennessee Code Annotated, § 2-6-205, in the case of individuals who are registered to vote in municipal elections as nonresident property owners all such voters are hereby required to cast his/her municipal ballots as absentee by mail ballots and shall not hereafter vote in the municipal election except by absentee ballot. (as added by Ord. #571, Feb. 2015)

CHAPTER 5

PARKS AND RECREATION

SECTION

20-501. Creation and general duties. There is hereby created a parks and recreation department and the city manager, or such assistant or department manager appointed by the city manager, shall be the head of the department of parks and recreation. (as added by Ord. #652, Dec. 2021 ***Ch8_12-04-23***)

20-502. Definitions. For the purpose of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

(1) "Athletic fields" are all city owned baseball, softball, soccer, and futsal fields including any facilities and any improvements, whether the same is now or shall hereafter be owned, whether by easement or otherwise, or be acquired by the city.

(2) "City" is the City of Dayton, Tennessee.

(3) "Director" is the director of parks and recreation of the City of Dayton, the person immediately in charge of all park areas and park activities,

recreational facilities and its activities, and athletic fields and its activities and to whom all park employees in such area are responsible.

(4) "Park" is all city owned parks including any facilities, playgrounds, parkways and any improvements whether the same is now or shall hereafter be owned or acquired by the city.

(5) "Recreational facilities" are all other city owned recreational areas, including but not limited to, tennis courts, pickle ball courts, basketball courts, boat docks, boat slips, piers and any facilities and improvements and entrances and approaches thereto whether the same is now or shall hereafter be owned or acquired by the city.

(6) "Special event" means any public gathering that is outside the normal usage, including, but not limited to the following: block party, festival, parade, celebration, concert, tournament, athletic clinic, athletic camp, etc.

(7) "Vehicle" means any wheeled conveyance, whether motor-powered, animal drawn or self-propelled. The term shall include any trailer in tow of any size, kind or description. Exception is made for baby strollers, vehicles in service of the city, and power mobility devices used for accessibility purposes. (as added by Ord. #652, Dec. 2021 ***Ch8_12-04-23***, and replaced by Ord. #688, May 2023 ***Ch8_12-04-23***)

20-503. Persons invited to use the city parks; park hours.

(1) All persons are invited to use city parks, athletic fields and recreational facilities who will comply with the terms hereof and such rules and regulations as may be promulgated hereunder governing the use of city parks, athletic fields and recreational facilities.

(2) City parks, athletic fields and all other recreational facilities will be open to use by the public invited thereto between the hours of 7:00 o'clock A.M. EST and 11:00 P.M. EST unless posted otherwise. (as added by Ord. #652, Dec. 2021 ***Ch8_12-04-23***)

20-504. Duties of the director. (1) It shall be the duty of the director to oversee, develop, provide, maintain, conduct, and supervise public playgrounds, athletic fields, recreation centers, and other recreational facilities and activities on properties owned or controlled by the City of Dayton. The aim and the purpose of the park and recreation department shall be the advancement of the welfare of the citizens and residents of the city in the area of recreation. The director, if not the city manager, shall report directly to the city manager.

(2) The director shall develop a comprehensive recreational program for the City of Dayton, Tennessee.

(3) The director shall administer the policies of the City of Dayton, recommend rules and regulations to the recreation board and to the city of Dayton for their consideration and perform such other duties as may be assigned him/her by the city manager, recreation board or city council.

(4) The director shall be responsible for the maintenance and upkeep of all public playgrounds, athletic fields, recreation centers and other recreational facilities through the assistance of the other departments of the city (streets, maintenance, sanitation, water, fire and police).

(5) The director shall be responsible for the development and implementation of programs and/or leagues for all age groups, upon approval of the recreation board and the city council, in the following areas:

(a) Softball;
(b) Baseball;
(c) Tennis;
(d) Pickleball;
(e) Soccer;
(f) Futsal; and
(g) Other areas as recommended by the recreation board and approved by the city council.

(6) The director shall attend all recreation board meetings and shall attend city council meetings as needed. The director shall report to the recreation board and to the city council concerning matters relating to the development, implementation and maintenance of the city public playgrounds, athletic fields, recreation centers, and other recreational facilities.

(7) The director shall be responsible for establishing a budget for the department and for following established procedures for the expenditures of funds.

(8) The director shall recommend to the recreation board and the city council rules and regulations to assure an impartial, fair and safe use and enjoyment by those persons using the city parks, athletic fields, recreation centers and other recreational facilities. The director shall have the authority to schedule the use of the tennis courts, pickleball courts, playgrounds, athletic fields and other recreational facilities. Regulations pertaining to specific activities shall be displayed in a prominent and public location at the point of the activity controlled. Rules and regulations adopted in accordance with this section shall have the same force and effect as if copied herein verbatim.

(9) The director shall be responsible for the scheduling of all activities of the city parks, athletic fields, and all other recreational facilities. (as added by Ord. #652, Dec. 2021 ***Ch8_12-04-23***)

20-505. <u>Enforcement</u>. (1) It shall be unlawful to violate any provisions of this chapter. Any violation shall be fined under the general penalty clause of this code.

(2) <u>Officials</u>. The director, recreation employees and members of the City of Dayton Police Department shall, in connection with their duties imposed by law, diligently enforce the provisions of this Chapter.

(3) <u>Ejectment</u>. The director and any members of the City of Dayton Police Department shall have the authority to eject from the parks, athletic

fields, and other recreational facilities any person acting in violation of this chapter or rules and regulations promulgated hereunder. (as added by Ord. #652, Dec. 2021 ***Ch8_12-04-23***)

20-506. Additional rules and regulations. The city council shall have the authority to promulgate such rules and regulations, upon recommendation by the director and recreation board, as may be necessary to carry out the provisions of this chapter and to assure an impartial, fair and safe use and enjoyment of the city parks, athletic fields, and other recreational facil ities by those persons lawfully using said recreational facilities. The director shall have the authority to schedule the use of the tennis courts, pickle ball courts, soccer fields and ball fields under this chapter, upon approval by the recreation board. Regulations pertaining to specific activities shall be displayed in a prominent and public location at the point of the activity controlled. Rules and regulations pertaining to the parks as a whole shall be publicly and prominently displayed at each entrance to city parks. Rules and regulations adopted from time to time by the City Council in accordance with this chapter shall have the same force and effect as if copied herein verbatim. (as added by Ord. #652, Dec. 2021 ***Ch8_12-04-23***)

20-507. Liability for injuries or damages. All persons using the parks and recreation facilities will do so at their own risk. The city shall not be liable for any injuries or damages sustained by persons using said parks and recreation facilities. (as added by Ord. #652, Dec. 2021 ***Ch8_12-04-23***)

20-508. Unlawful activities generally. It shall be unlawful for any person within the city parks, athletic fields or any other recreational facility to:

(1) Buildings and other property. (a) Disfiguration and removal. Willfully mark, deface, disfigure, injure, tamper with, or displace or remove any buildings, bridges, tables, benches, railings, paving or paving material, walk, wall, water lines or other public utilities or parts or appurtenances thereof, restrooms, signs, notices or placards, whether temporary or permanent, monuments, fences, stakes, posts or other boundary markers, or other structures or equipment, facilities or city park property or appurtenances whatsoever, either real or personal.

(b) Restrooms and washrooms. Fail to cooperate in maintaining restrooms and washrooms in a neat and sanitary condition.

(c) Removal of natural resources. Dig or remove any sand, soil, rock, stones, trees, shrubs or plants, down-timber or other wood or materials, or make any excavation by tool, equipment, blasting or other means or agency.

(d) Erection of structures. Construct or erect any building or structure of whatever kind, whether permanent or temporary in

character, or run or string any public service utility into, upon or across such lands, except on special written permit issued hereunder.

(2) Trees, shrubbery, lawns. (a) lnjury and removal. Damage, cut, carve, transplant or remove any tree or plant or injure the bark, or pick the flowers or seeds, of any tree or plant. Nor shall any person attach any rope, wire or other contrivance to any tree or plant. A person shall not dig in or otherwise disturb grass areas, or in any other way injure or impair the natural beauty or usefulness of any area.

(b) Climbing trees. etc. Climb any tree or walk, stand or sit upon monuments, vases, fountains, railing, fences, or upon any other property not designated or customarily used for such purposes.

(3) Wild animals, birds, etc. (a) Hunt, pursue, harm, frighten, kill, trap, chase, tease, shoot or throw missiles at any animal, reptile or bird; nor shall he/she remove or have in his/her possession the young of any wild animal, or the eggs or nest, or young of any reptile or bird.

(b) Feeding. Give or offer, or attempt to give to any animal or bird any tobacco, alcohol or other known noxious substances.

(4) Camp or erect or maintain a tent or shelter, camp-trailer, house-trailer or the like.

(5) Distribute, display, or construct any material for advertising purposes (except for league or city affiliated signs approved by the recreation board and/or city council).

(6) Bring in, distribute, have possession of, or partake of any alcoholic beverage, drug or illegal substance.

(7) Park or drive in any areas other than designated parking areas.

(8) Be responsible for the entry of any domesticated animal, other than a service animal as authorized by state and/or federal law into areas other than automobile parking concourses and walks immediately adjacent thereto, except for the dog park, and in other areas as designated. Nothing in this section shall be construed as to permit the running of dogs at large.

(9) Interfere with, encumber, obstruct, or render dangerous any part of the public parks, athletic fields or other recreational areas.

(10) Throw, cast, or propel stones or other missiles.

(11) Enter an area posted as "Closed" or "Closed to the Public" nor shall any person use or abet the use of any area in violation of posted notices.

(12) Disturb or interfere unreasonably with any person or party occupying any area or participating in any activity under the authority of a permit.

(13) Smoke in prohibited areas.

(14) No fires shall be built in any area of any park, athletic field, or other recreational facilities, except in such areas as are specifically designed for fire building, nor shall any person dump, throw, or permit to be scattered, by any means, lighted matches, burning tobacco products, or any other flammable

material within any park area, athletic field or other recreational facilities, or any highway, road, or street abutting thereto.

(15) Engage in any activity prohibited by city ordinance or by state or federal law.

(16) Neglect to clean up and properly dispose of animal waste produced by any animal under their care or control.

(17) Bring or have in his/her possession, or set off or otherwise cause to explode, discharge or burn, any firecracker, torpedo, rocket or other fireworks or explosives or inflammable material, or discharge them or throw them into any such area from the land or highway adjacent thereto. This prohibition includes any substance, compound, mixture or article that in conjunction with any other substances or compound would be similarly dangerous.

(18) Horses are prohibited at the city parks, athletic fields and other recreational facilities.

(19) Take part in or abet the playing of any games involving thrown or otherwise propelled objects such as golf balls, stones, arrows, javelins or model airplanes, except in areas set apart for such forms of recreation. The playing of rough or comparatively dangerous games such as football, baseball, and soccer is prohibited except on fields and courts or in areas provided therefor. (as added by Ord. #652, Dec. 2021 ***Ch8_12-04-23***)

20-509. Sanitation. It shall be unlawful for any person within city parks, athletic fields or other recreational facilities to:

(1) Pollution of waters. Throw, discharge or otherwise place or cause to be placed in the waters of any fountain, pond, lake, stream, bay or other body of water in or adjacent to any park, athletic field, or other recreational facility or any tributary, stream, storm sewer or drain flowing into such waters any substance, matter or thing, liquid or solid, which will or may result in the pollution of said waters.

(2) Refuse and trash. Have brought in or shall dump, deposit or leave any bottles, broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage, or refuse or other trash. No such refuse or trash shall be placed in any waters in or contiguous to any park, athletic field or other recreational facilities or left anywhere on the grounds thereof, but shall be placed in the proper receptacles where these are provided; where receptacles are not so provided all such rubbish or waste shall be carried away from the park by the persons responsible for its presence, and properly disposed of elsewhere. (as added by Ord. #652, Dec. 2021 ***Ch8_12-04-23***)

20-510. Closed areas. Any section or part of any park, athletic field or other recreational facilities may be declared closed to the public by the director or the city manager at any time and for any interval or at regular or started intervals (daily or otherwise) or entirely or merely restricted to certain uses as the director or city manager shall find reasonably necessary. Any party using

the closed area shall be deemed to be trespassing. (as added by Ord. #652, Dec. 2021 ***Ch8_12-04-23***)

20-511. Traffic. It shall be unlawful for any person within the parks to:

(1) State motor vehicle laws and city traffic ordinances apply. Fail to comply with all applicable provisions of the state motor vehicle traffic laws and the traffic ordinances of the City of Dayton in regard to equipment and operation of vehicles together with such regulations as are contained in this chapter and other ordinances.

(2) Obey personnel; enforcement of traffic regulations. Fail to obey all traffic officers and park employees, such persons being hereby authorized and instructed to direct traffic whenever and wherever need in the parks.

(3) Operation confined to specific areas. Drive any vehicle on any area except the paved park or recreational facilities roads or parking areas, or such other areas as may on occasion be specifically designated as temporary parking areas by the director.

(4) Parking. (a) Designated areas. Park a vehicle in other than an established or designated parking area, and such use shall be in accordance with the posted directions at each park or recreational facilities and with the instructions of any employee who may be present.

(b) Full-parking. Full-park on the road or driveway at any time.

(c) Night parking. Leave a vehicle standing or parked at night without lights clearly visible for at least one hundred feet (100') from both front and rear and on any driveway or road area except legally established parking areas.

(d) Abandonment. Leave a vehicle within the boundaries of a park after park hours. Any vehicle remaining in said park after closing hours will be towed away and stored at the expense of the owner.

(e) All disabled vehicles not removed from parks and other recreational facilities within twenty-four (24) hours shall be subject to citation and removal by the city and impounded until such time as redeemed at the owner's expense.

(f) No person shall change any parts of or repair, wash or grease a vehicle on any park roadway, parkway, driveway, parking lot or other park property.

(5) Bicycles, motorcycles and all terrain vehicles. (a) Confined to roads. Ride a bicycle or motorcycle on other than a paved vehicular road or specifically designated route.

(b) Have or operate trail bikes, motorcycles, ATVs/UTVs, or any other type or kind of motorized vehicle except upon the roadways and parking areas within a park.

(c) Immobile. Leave a bicycle or motorcycle lying on the ground or paving, or set against trees, or in any place or position where other persons may trip over or be injured by them.

(d) Night operation. Ride a bicycle or motorcycle on any road within the parks between thirty (30) minutes after sunset or thirty (30) minutes before sunrise without an attached headlight plainly visible at least two hundred feet (200') in front of, and without a red tail light or red reflector plainly visible from at least one hundred feet (100) from the rear of such bicycle or motorcycle.

(6) Fail to observe carefully all traffic signs indicating speed, direction, caution, stopping or parking and all others posted for proper control and to safeguard life and property. (as added by Ord. #652, Dec. 2021 ***Ch8_12-04-23***)

20-512. Use of athletic fields, parks and other recreational facilities. The activities sponsored by the parks and recreation department shall have priority and use of the athletic fields, parks and other recreational facilities. (as added by Ord. #652, Dec. 2021 ***Ch8_12-04-23***)

20-513. Merchandising, advertising and signs. No person in a city park shall:

(1) Expose or offer for sale any article or thing, nor shall he/she station or place any stand, cart or vehicle for the transportation, sale or display of any such article or thing. Exception is hereby made for holders of a special event permit issued pursuant to title 16, chapter 3, special events and parades of the Municipal Code of the City of Dayton.

(2) Announce, advertise or call the public attention in any way to any article or service for sale or hire.

(3) Paste, glue, tack or otherwise post any sign, placard, advertisement or inscription whatsoever, nor shall any person erect or cause to be erected any sign whatsoever on any public lands or highways or roads adjacent to a park. (as added by Ord. #652, Dec. 2021 ***Ch8_12-04-23***)

20-514. Parks and recreation user fees. In addition to the deposit requirements set forth in 20-519, user fees for this chapter shall be as follows:

(1) Swinging Bridge Park:

(a) Small pavilion - Twelve dollars ($12.00) for a four (4) hour time frame.

(b) Big pavilion - Twenty four dollars ($24.00) for a four (4) hour time frame.

(c) The four (4) hour time frames for the use of all the pavilions at the Swinging Bridge Park shall be based on the following time periods: 9:00 A.M. to 1:00 P.M.; 1:30 P.M. to 5:30 P.M.; and 6:00 P.M. until the park closes but no later than 11:00 P.M. In addition to the charge(s) for the use of the pavilion(s), there shall also be charged a one hundred dollar ($100.00) special event fee.

(2) Point Park:

(a) Small pavilion - Eight dollars ($8.00) for a four (4) hour time frame.

(b) Big pavilion - Twenty dollars ($20.00) for a four (4) hour time frame.

(c) The four (4) hour time frames for the use of all the pavilions at Point Park shall be based on the following time periods: 9:00 A.M. to 1:00 P.M.; 1:30 P.M. to 5:30 P.M.; and 6:00 P.M. until the park closes but no later than 11:00 P.M. In addition to the charge(s) for the use of the pavilion(s), there shall also be charged a one hundred dollar ($100.00) special event fee.

(3) Pendergrass Park: All pavilions at Pendergrass Park are available on a first come basis. These pavilions cannot be reserved in advance. Also, there is no charge for the use of the pavilions at Pendergrass Park.

(4) Pickleball Courts: One hundred twenty five dollars ($125.00) per day per court.

(5) Jim Barnes Complex Baseball fields:

(a) One hundred dollars ($100.00) per day and per field;

(b) Fifty dollars ($50.00) per day for use of <u>each</u> concession building;

(c) Ten dollars ($10.00) per bag for field drying agent;

(d) Thirty dollars ($30.00) per field and per day for field lights; and

(e) A minimum charge of two hundred dollars ($200.00) for use of the baseball fields.

(6) Delaware Complex Baseball fields:

(a) One hundred dollars ($100.00) per day and per field;

(b) Fifty dollars ($50.00) per day for use of each concession building;

(c) Ten dollars ($10.00) per bag for field drying agent;

(d) Thirty dollars ($30.00) per field and per day for field lights; and

(e) A minimum charge of two hundred dollars ($200.00) for use of the baseball fields.

(7) Delaware Complex tennis courts: Seventy five ($75.00) per day.

(8) Voight Field:

(a) One hundred dollars ($100.00) per day and per field;

(b) Fifty dollars ($50.00) per day for use of <u>each</u> concession building;

(c) Ten dollars ($10.00) per bag for field drying agent;

(d) Thirty dollars ($30.00) per field and per day for field lights; and

(e) A minimum charge of two hundred dollars ($200.00) for use of the field.

(9) Green Field:

(a) One hundred dollars ($100.00) per day and per field;

(b) Fifty dollars ($50.00) per day for use of each concession building;

(c) Ten dollars ($10.00) per bag for field drying agent;

(d) Thirty dollars ($30.00) per field and per day for field lights; and

(e) A minimum charge of two hundred dollars ($200.00) for use of the field.

(10) Centennial Park: Seventy five dollars ($75.00) per day.

(11) Futsal Court: One hundred twenty five dollars ($125.00) per day.

(12) Soccer fields: Seventy five dollars ($75.00) per day.

(13) All other individual fields, softball and baseball fields, located at the Jim Barnes Complex and at the Delaware Complex:

(a) One hundred dollars ($100.00) per day and per field;

(b) Fifty dollars ($50.00) per day for use of <u>each</u> concession building;

(c) Ten dollars ($10.00) per bag for field drying agent;

(d) Thirty dollars ($30.00) per field and per day for field lights; and

(e) A minimum charge of two hundred dollars ($200.00) for use of the field. (as added by Ord. #673, Oct. 2022 ***Ch8_12-04-23***, and replaced by Ord. #688, May 2023 ***Ch8_12-04-23***)

20-515. <u>Pavilion reservation</u>. Any organization, group, civic club, individual, firm, or corporation that desires to reserve a pavilion at the Swinging Bridge Park, Point Park, or Pendergrass Park must complete an application and obtain a permit as set forth in this chapter. individuals, organization, civic club, firms, corporations or groups who obtain a permit for use of the pavilion(s) must have the permit in his/her/their possession and be able to display it upon demand at the time and place listed in the permit. (as added by Ord. #681, Dec. 2022 ***Ch8_12-04-23***)

20-516. <u>Application for permit</u>. (1) Any organization, group, civic club, individual, firm, or corporation seeking issuance of a permit pursuant to this Chapter shall sign and file an application with the director or his/her designee. An indemnity agreement must be signed by the applicant upon the filing of the application with the director or his/her designee. The application shall state the following:

(a) The name and address of the applicant;

(b) The name and address of the person, persons, organization, club, firm, corporation, or association sponsoring the activity, if any;

(c) The day and hours for which the permit is desired;

(d) The pavilion(s) or facility for which the permit is desired;

(e) The proposed use of the facility;

(f) An estimate of the anticipated attendance and the proposed number of person who will participate in the activity involved;

(g) A description of the activity proposed;

(h) A detailed description of all equipment to be brought into the park or facility, if any;

(i) A statement of any special circumstances which are material to the permit requested;

(j) Any other information which the director or his/her designee shall find reasonably necessary to a fair determination as to whether a permit should be issued hereunder.

(2) Standards for issuance. (a) The director or his/her designee shall issue a permit hereunder when he/she finds:

(i) That the proposed activity or use of the pavilion/park will not unreasonably interfere with or detract from the general public enjoyment of the park;

(ii) That the proposed activity and use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation;

(iii) That the proposed activity or use is not unreasonably anticipated to incite violence, crime or disorderly conduct;

(iv) That the proposed activity will not entail unusual, extraordinary or burdensome expense or police operation by the city; and

(v) That the facilities desired have not been reserved for other use at the day and hour required in the application.

(b) Any individual or group, firm, or corporation using a park, recreational or municipal public facility for any purpose, shall agree to indemnify the city for any loss, costs of clean-up, or other costs associated with their/its use, which may accrue to the city.

(c) If applicable, the organization, group, civic club, individual, firm or corporation using a municipal public facility shall be responsible for obtaining authorization for performances of copyrighted musical works and other material and that they/it will be responsible for ensuring that all entertainers have obtained the proper and necessary authorization to perform any licensed material. It is understood and agreed that the city is not responsible for any unauthorized performance of copyrighted material and will hold the city harmless and will indemnify the city from and against any and all claims, lawsuits, and demands in connection with the performance of copyrighted material.

(d) Any organization, group, civic club, individual, firm, or corporation using a park, recreational or municipal public facility for any purpose, agrees to be legally bound for themselves/itself, heirs, executors, administrators and assigns, to hold the city harmless and to waive and

release any and all rights and claims for loss against the city, its volunteers, officers, agents or employees.

(e) Any organization, group, civic club, individual, firm, or corporation using a park, recreational or municipal public facility for any purpose, shall not hold the city, its volunteers, officers, agents or employees liable for any loss, injury, bodily injury, property damage or theft that they/it, or any of their/its invitees, employees, agents, or persons working with them/ it, sustain or suffer while attending the event being held/sponsored by them/it.

(3) Appeal. Within seven (7) days after receipt of an application, the director shall apprise an applicant in writing of his/her reasons for refusing a permit, and any aggrieved person shall have the right to appeal in writing within two (2) days to the city manager, which shall consider the application under the standards set forth herein and sustain or overrule the director's decision within five (5) days. The decision of the city manager shall be final.

(4) Effect of permit. A permittee shall be bound by all park rules and regulations and all applicable ordinances, laws, statutes and regulations fully as though the same were inserted in said permits.

(5) Liability of permittee. The person or persons or organization, firm, group, etc. to whom a permit is issued shall be liable for any loss, damage or injury sustained by any person whatsoever by reason of the negligence or intentional act(s) of the person or persons, organization, finn, group, etc. to whom such permit shall have been issued, and shall provide certificate of insurance upon request.

(6) Revocation. The director shall have the authority to revoke a permit upon a finding of violation of any rule, ordinance, law, regulation, or upon good cause shown. (as added by Ord. #681, Dec. 2022 ***Ch8_12-04-23***)

20-517. Special events. The term "special event" shall be defined as in § 16-301 and every special event shall be required to have a permit from the city and shall comply with the requirements set forth in title 16, chapter 3, special events and parades. Further, every special event using city streets, sidewalks, parks, pavilions and other city facilities shall be required to have the approval of the city council. ln addition, the sponsor of a special event shall be required to sign an indemnity agreement and to obtain insurance for the said special event. (as added by Ord. #681, Dec. 2022 ***Ch8_12-04-23***)

20-518. Tournaments. All tournaments and sporting events using city recreational facilities, athletic fields, and parks shall be required to obtain a permit as set forth herein and shall be required to obtain city council approval. ln addition, sponsors of tournaments and sporting events shall be required to enter into a tournament/sporting event agreement which at a minimum shall require the sponsor to obtain and maintain insurance, indemnify and hold harmless the City of Dayton for personal injuries and property damage, and

comply with concussion and sudden cardiac arrest laws. (as added by Ord. #681, Dec. 2022 ***Ch8_12-04-23***)

20-519. <u>Deposit</u>. Persons wishing to reserve an athletic field, park, court, pavilion or any other recreational facility shall submit a deposit in the amount of two hundred dollars ($200.00) to the City of Dayton to reserve such athletic field, park, pavilion or recreational facility. The deposit is refundable within seven (7) business days after the event or use of such athletic field, park, court, pavilion or recreation facility provided that the premises are left clean and there is no damage to the premises. Any costs incurred by the city in repairing any loss or damage to the premises or for cleaning the premises after the event or use of said facility will be deducted from the deposit. Should damages exceed the deposit amount, then the person and/or organization reserving said premises shall be responsible for any additional costs, including but not limited to, repair or replacement costs, cleaning costs, court costs, and attorney fees. Checks shall be made payable to the "City of Dayton." (as added by Ord. #688, May 2023 ***Ch8_12-04-23***)

CHAPTER 6

UNCLAIMED PROPERTY POLICY

SECTION

20-601. Unclaimed property - definition, exceptions. (1) "Unclaimed property" as used in this ordinance includes all property that comes to be in the possession of the city through abandonment or other means. Tennessee's Uniform Unclaimed Property Act[1] applies to unclaimed property the city is holding for other organizations or individuals and for which the city has had no contact with the apparent owner for a minimum of one (1) year up to the maximum statutory period.

(2) "Unclaimed property" includes, but is not limited to:

(a) Uncashed payroll checks;
(b) Uncashed disbursement checks;
(c) Uncashed miscellaneous checks;
(d) Credit balances in accounts receivables;
(e) Utility deposits;
(f) Unclaimed personal property.

(3) Exceptions: "Unclaimed property" does not include:

(a) Real property;
(b) City surplus property[2];
(c) Any weapon, including but not limited to firearms or knives[3]; or
(d) Property that is seized and/or forfeited through law enforcement action.[4]

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[1]State law reference
Tennessee Code Annotated §§ 66-29-101, et seq.

[2]Surplus personal property owned by the city/town is disposed of under the Surplus Property Policy

[3]Weapons must be disposed of under the provisions of Tennessee Code Annotated § 39-17-1317

[4]Seized or forfeited property must be disposed of under applicable state laws.

20-602. Due diligence required for unclaimed property. (1) Before reporting unclaimed property to the Tennessee Department of Treasury, the city must exercise due diligence by attempting to notify the individual who is the apparent owner of the property in writing that the city is in possession of unclaimed property belonging to the individual in an amount of fifty dollars ($50.00) or greater. The notice must also include information on how the apparent owner can claim the property.

(2) The written notice must be sent via first-class or registered mail to the last known address of the apparent owner.

(3) Such written notice must be sent not more than one hundred eighty (180) days, nor less than sixty (60) days, before filing the report with the Tennessee Department of Treasury.

(4) If an apparent owner of unclaimed property consented to receive electronic mail communications from the city, the city shall send the notice by both first-class mail to the apparent owner's last known mailing address and by electronic mail, unless the city has reason to believe that the apparent owner's electronic mail address is not valid.

(5) The notice to the apparent owner must contain a heading that reads substantially the same as the following: "Notice: The State of Tennessee requires us to notify you that your property may be transferred to the custody of the Treasurer if you do not contact us within thirty (30) days after the date of this notice."

(6) Mail returned as "undeliverable" is evidence that the apparent owner cannot be located. When the apparent owner cannot be located, the property is considered abandoned and the city must report it to the Tennessee Department of Treasury as unclaimed property.

(7) No written notice is required to be sent to an apparent owner when the property that comes into the possession of the city is not at least fifty dollars ($50.00). The property must be submitted to the Tennessee Department of Treasury with the other unclaimed property that comes into the possession of the city during each respective calendar year. (as added by Ord. #656, Feb. 2022 ***Ch8_12-04-23***)

20-603. Methods of disposal of unclaimed property. (1) Methods of disposal which may be used by the purchasing agent shall include:

(a) Sales at public auction, publicly advertised and held;

(b) Sale under sealed bids, publicly advertised, opened and recorded; or

(c) Sale by internet auction.

(2) Notice of any public auctions and sales under sealed bids, as provided in this chapter, shall be publicly advertised and publicly held. Notice of intended sale by public auction or sale under sealed bid shall be published by the purchasing agent in at least one (1) newspaper of general circulation in Rhea

County. Such notice shall specify and reasonably describe the property to be sold, the date, time, place, manner, and conditions of sale, all as previously determined by the purchasing agent in accordance with the regulations of the city. The advertisement shall be printed in the public notice or equivalent section of the newspaper and shall be run not less than one (1) day. The auction or sale under sealed bid shall be made not sooner than seven (7) days after the last day of publication nor later than fifteen (15) days after the last day of publication of the required notice, excluding Saturdays, Sundays, and holidays. Prominent notice shall also be posted conspicuously for ten (10) days prior to the date of disposal, excluding Saturdays, Sundays, and holidays, in at least two (2) public places in the county. Furthermore, notice shall be sent to the county clerk and such notice shall be posted in the county courthouse unless otherwise directed by the purchasing agent.

(3) Notice of intended disposal by internet auction shall be posted on the city's website notifying the public of such intended internet sale. Such notice shall identify the website and provide a link to the online auction website in which any citizen may view and/or bid on any article. The website notice shall be displayed on a basis of twenty-four (24) hours a day, seven (7) days per week. The website notice shall reasonably describe the property to be sold, the date(s), time, manner and conditions of sale, all as previously determined by the internet auction provider in accordance with the contract and/or signed agreement with the city.

(4) The purchasing agent shall furnish the governing body a list of all unclaimed personal property disposed of, the method of disposal of such property, and the price obtained as a result of the sale of any unclaimed property. (as added by Ord. #656, Feb. 2022 ***Ch8_12-04-23***)

20-604. <u>Disposition of proceeds of sale of unclaimed property</u>.

(1) All funds received from the sale of unclaimed property from any city department shall be paid by the purchasing agent into the city treasury. The purchasing agent shall certify to the city recorder the expense incurred in making the sale or otherwise disposing of such property, including the costs and expenses of storage during the period such property was in the possession of the city. All funds received from the sales of unclaimed personal property shall be paid into the general fund.

(2) If the owner of any article of unclaimed personal property sold presents satisfactory proof to the city that they were the owner of any article sold within a period of thirty (30) days after the sale, they shall be entitled to the proceeds of the sale thereof, less their proportionate share of the expenses of the sale. (as added by Ord. #656, Feb. 2022 ***Ch8_12-04-23***)

CHAPTER 7

(as added by Ord. #677, Nov. 2022 ***Ch8_12-04-23***, and
repealed by Ord. #687, May 2023 ***Ch8_12-04-23***)

APPENDIX

A. OCCUPATIONAL SAFETY AND HEALTH PROGRAM FOR THE EMPLOYEES OF THE CITY OF DAYTON, TENNESSEE.

(Ord. #436, July 2003, as replaced by Ord. #586, Sept. 2016)

PLAN OF OPERATION FOR THE OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN FOR THE EMPLOYEES OF DAYTON, TENNESSEE

SECTION PAGE

APPENDICES

I. Purpose and coverage.

The purpose of this plan is to provide guidelines and procedures for implementing the Occupational Safety and Health Program Plan for the employees of the City of Dayton.

This plan is applicable to all employees, part-time or full-time, seasonal or permanent.

The Dayton City Council in electing to update and maintain an effective Occupational Safety and Health Program Plan 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 Safety 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 Plan 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 Plan.

h. Provide reasonable opportunity for and encourage the participation of employees in the effectuation of the objectives of this Program Plan, including the opportunity to make anonymous complaints concerning conditions or practices which may be injurious to employees' safety and health.

II. **Definitions**.

For the purposes of this Program Plan, the following definitions apply:

a. "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.

b. "Employer" means the City of Dayton and includes each administrative department, board, commission, division, or other agency of the City of Dayton.

c. "Safety Director of Occupational Safety and Health" or "Safety 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 Plan for the employees of the City of Dayton.

d. "Inspector(s)" means the individual(s) appointed or designated by the Safety 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 Safety Director of Occupational Safety and Health.

e. "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.

f. "Employee" means any person performing services for this employer and listed on the payroll of this employer, either as part-time, full-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. "Person" means one or more individuals, partnerships, associations, corporations, business trusts, or legal representatives of any organized group of persons.

h. "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.

i. "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.

j. "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.

k. "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.

l. "Act" or "TOSH Act" shall mean the Tennessee Occupational Safety and Health Act of 1972.

m. "Governing body" means the County Quarterly Court, Board of Aldermen, Board of Commissioners, City or Town Council, Board of Governors, etc., whichever may be applicable to the local government, government agency, or utility to which this plan applies.

n. "Chief executive officer" means the chief administrative official, County Judge, County Chairman, County Mayor, Mayor, City Manager, General Manager, etc., as may be applicable.

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 Plan 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 Plan.

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 Plan 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 TOSH 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 Plan 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 of corrective action being taken.

f. Subject to regulations issued pursuant to this Program Plan, any employee or authorized representative of employees shall be given the right to request an inspection and to consult with the Safety Director or Inspector at the time of the physical inspection of the worksite.

g. Any employee may bring to the attention of the Safety 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 Plan.

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 Safety 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 Plan 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 Safety Director within twenty-four (24) hours after the occurrence.

V. <u>Administration</u>.

a. The Safety 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 Plan.

1. The Safety Director may designate person or persons as he deems necessary to carry out his powers, duties, and responsibilities under this Program Plan.
2. The Safety Director may delegate the power to make inspections, provided procedures employed are as effective as those employed by the Safety Director.
3. The Safety 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 Plan.
4. The Safety 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 Plan.
5. The Safety 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 Safety 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 Safety Director shall assist any officials of the employer in the investigation of occupational accidents or illnesses.
8. The Safety Director shall maintain or cause to be maintained records required under Section VIII of this plan.
9. The Safety 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. All work-related inpatient hospitalizations, amputations, and loss of an eye must be reported to TOSHA within 24 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 Planwithin their respective areas.

1. The administrative or operational head shall follow the directions of the Safety 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 Safety 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 Safety Director along with his findings and/or recommendations in accordance with APPENDIX IV of this plan.

VI. <u>Standards authorized</u>.

The standards adopted under this Program Plan are the applicable standards developed and promulgated under Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972. 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. Note: 29 CFR 1910 General Industry Regulations; 29 CFR 1926 Construction Industry Regulations; and the Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, CHAPTER 0800-01-1 through CHAPTER 0800-01-11 are the standards and rules invoked.

VII. Variance procedure.

The Safety 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 Safety 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 for a hearing.

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 Plan for coming into compliance with the standard as quickly as possible.

2. The employee is engaged in an experimental Program Plan 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).

VIII. Recordkeeping and reporting.

Recording and reporting of all occupational accident, injuries, and illnesses shall be in accordance with instructions and on forms prescribed in the booklet. You can get a copy of the Forms for Recordkeeping from the internet. Go to www.osha.gov and click on Recordkeeping Forms located on the home page.

The position responsible for recordkeeping is shown on the Safety and Health Organizational Chart, Appendix IV to this plan.

Details of how reports of occupational accidents, injuries, and illnesses will reach the recordkeeper are specified by Accident Reporting Procedures, Appendix IV to this plan. The Rule of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, Occupational Safety and Health Record-keeping and Reporting, Chapter 0800-01-03, as authorized by T.C.A., Title 50.

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 Safety 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 Safety 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 Safety 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 Safety 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 Safety Director who shall make them available to the Commissioner of Labor and Workforce Development or his designated representative upon request.

X. <u>Education and training</u>.

a. Director and/or compliance inspector(s):

1. Arrangements will be made for the Safety Director and/or Compliance Inspector(s) to attend training seminars, workshops, etc., conducted by the State of Tennessee or other agencies. A list of Seminars can be obtained.
2. Access will be made to reference materials such as 29 CFR 1910 General Industry Regulations; 29 CFR 1926 Construction Industry Regulations; The Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, and other equipment/ supplies, 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 supervisory personnel):

A suitable safety and health training program for employees will be established. This program will, at a minimum:

1. Instruct each employee in the recognition and avoidance of hazards or unsafe conditions and of standards and regulations applicable to the employees work environment to control or eliminate any hazards, unsafe conditions, or other exposures to occupational illness or injury.
2. Instruct employees who are required to handle or use poisons, acids, caustics, toxicants, flammable liquids, or gases including explosives, and other harmful substances in

the proper handling procedures and use of such items and make them aware of the personal protective measures, person 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 all employees of the common deadly hazards and how to avoid them, such as Falls; Equipment Turnover; Electrocution; Struck by/Caught In; Trench Cave In; Heat Stress and Drowning.
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.

XI. <u>General inspection procedures</u>.

It is the intention of the governing body and the responsible officials to have an Occupational Safety and Health Program Plan 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 Ordinance, the Safety 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 Safety 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 Safety 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 investigative 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 Safety 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 are at least as effective as those made by the Safety Director.
   2. Records are made of the inspections, any discrepancies found and corrective actions taken. This information is forwarded to the Safety Director.

i. The Safety 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. Those inspection records shall be subject to review by the Commissioner of Labor and Workforce Development or his authorized representative. (Ord. #436, July 2003, as replaced by Ord. #586, Sept. 2016)

XII. <u>Imminent danger procedures</u>.

a. Any discovery, any allegation, or any report of imminent danger shall be handled in accordance with the following procedures:
   1. The Safety 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 Safety 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 Safety 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 Safety 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 Safety Director describing in detail the imminent danger and its abatement. This report will be maintained by the Safety 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 Safety Director and Chief Executive Officer immediately.
   2. The Safety Director and/or Chief Executive Officer shall take whatever action may be necessary to achieve abatement.

XIII. Abatement orders and hearings.

a. Whenever, as a result of an inspection or investigation, the Safety 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 Safety 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 Safety Director in writing of any objections to the terms and conditions of the

order. Upon receipt of such objections, the Safety 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 Safety 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.

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 Plan.

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.

XV. Confidentiality of privileged information.

All information obtained by or reported to the Safety Director pursuant to this plan of operation or the legislation (ordinance, or executive order) enabling this Occupational Safety and Health Program Plan 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 Plan or when relevant in any proceeding under this Program Plan. 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.

XVI. Discrimination investigations and sanctions.

The Rule of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, DISCRIMINATION AGAINST EMPLOYEES EXERCISING RIGHTS UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1972 0800-01-08, as authorized by T.C.A., Title 50. The agency agrees that any employee who believes they have been discriminated

against or discharged in violation of Tenn. Code Ann. § 50-3-409 can file a complaint with their agency/safety Safety Director within 30 days, after the alleged discrimination occurred. Also, the agency agrees the employee has a right to file their complaint with the Commissioner of Labor and Workforce Development within the same 30 day period. The Commissioner of Labor and Workforce Development may investigate such complaints, make recommendations, and/or issue a written notification of a violation.

XVII. <u>Compliance with other laws not excused</u>.

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 Plan.

b. Compliance with any provisions of this Program Plan or any standard, rule, regulation, or order issued pursuant to this Program Plan shall not excuse the employer, the employee, or any other person from compliance with the law, statute, ordinance, or executive order, as applicable, regulating and promoting safety and health unless such law, statute, ordinance, or executive order, as applicable, is specifically repealed.

_____

Signature: Safety Director, Occupational Safety and Health and Date

OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN
APPENDIX 1

ORGANIZATIONAL CHART

Administrative Building 10
399 1st Avenue
Dayton, TN 37321
(423) 775-1817

Street Department 9
272 California Ave
Dayton, TN 37321
(423) 775-8421

Police Department 21
1191 Market St
Dayton, TN 37321
(423) 775-8403

Fire Department 9
1169 Market St
Dayton, TN 37321
(423) 775-8402

Sanitation Department 5
272 California Ave
Dayton, TN 37321
(423) 775-1817

Recreation Department 5
272 California Ave
Dayton, TN 37321
(423) 775-1817

Clyde W. Roddy Public Library 8
371 1st Ave
Dayton, TN 37321
(423) 775-8406

Mark Anton Airport 3
350 Walter Squire Rd
Dayton, TN 37321
(423) 775-8407

Maintenance Department 6
272 California Ave
Dayton, TN 37321
(423) 775-8418

Electric Department 30
421 1st Ave
Dayton, TN 37321
(423) 775-1818

Water Department 20
421 1st Ave
Dayton, TN 37321
(423) 775-1817

Sewer Department 6
115 Blythes Ferry Rd
Dayton, TN 37321
(423) 775-1817

Sewer Rehab 3
100 Young Rd
Dayton, TN 37321
(423) 775-1817

Dayton City School 98
520 Cherry St
Dayton, TN 37321
(423) 775-8414

Animal Shelter 1
102 Blythes Ferry Rd
Dayton, TN 37321
(423) 775-1817

TOTAL NUMBER OF EMPLOYEES: 234

OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN

APPENDIX II

NOTICE TO ALL EMPLOYEES OF THE CITY OF DAYTON, TENNESSEE

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 Plan 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 Plan may file a petition with the Safety Director or City Manager.

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 Plan, 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 Plan.

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 grievance committee 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 Plan for the Employees of the City of Dayton is available for inspection by any employee at City Hall during regular office hours.

_____

Signature: (City/County) Mayor and Date

APPENDIX III

PROGRAM PLAN BUDGET

(Either answer questions 1-11 or fill in the statement below)

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 Plan.
11. Contingencies and miscellaneous,

TOTAL ESTIMATED PROGRAM PLAN FUNDING,
ESTIMATE OF TOTAL BUDGET FOR:

OR Use This Statement:

STATEMENT OF FINANCIAL RESOURCE AVAILABILITY

Be assured that (Name of local government) the City of Dayton has sufficient financial resources available or will make sufficient resources available as may be required in order to administer and staff its Occupational Safety and Health Program Plan and to comply with standards.

APPENDIX IV

ACCIDENT REPORTING PROCEDURES

(1-15) Employees shall report all accidents, injuries, or illnesses directly to the Safety 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 Safety Director and/or record keeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The Safety 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 Safety Director and/or record keeper 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 Safety Director and/or record keeper 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 Safety Director and/or record keeper 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 Safety Director and/or record keeper 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 Safety Director or Compliance Inspector, if necessary) and will complete a written report on the accident or illness and forward it to the Safety 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.

(251-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 Safety 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 6A 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 4 listed under PROGRAM PLAN in Section V. ADMINISTRATION, Part b 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.

The four (4) procedures listed above 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.).

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. Note also that the specific information listed for written reports applies to all three of the procedures listed for those organizations with sixteen (16) or more employees.

ORDINANCE NO. 458

AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE CITY OF DAYTON TENNESSEE.

WHEREAS some of the ordinances of the City of Dayton are obsolete, and

WHEREAS some of the other ordinances of the city are inconsistent with each other or are otherwise inadequate, and

WHEREAS the Mayor and Council Members of the City of Dayton, 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 "Dayton Municipal Code," now, therefore:

BE IT ORDAINED BY THE MAYOR AND COUNCIL MEMBERS OF THE CITY OF DAYTON, 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 "Dayton Municipal Code," hereinafter referred to as the "municipal code."

Section 2. Ordinances repealed. All ordinances of a general, continuing, and permanent application or of a penal nature not contained in the municipal code are hereby repealed from and after the effective date of said code, except as hereinafter provided in Section 3 below.

Section 3. Ordinances saved from repeal. The repeal provided for in Section 2 of this ordinance shall not affect: Any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of the municipal code; any ordinance or resolution promising or requiring the payment of money by or to the city or authorizing the issuance of any bonds or other evidence of said city's indebtedness; any appropriation ordinance or ordinance providing for the levy of taxes or any budget ordinance; any contract or obligation assumed by or in favor of said city; any ordinance establishing a social security system or providing coverage under that system; any administrative ordinances or resolutions not in conflict or inconsistent with the provisions of such code; the portion of any ordinance not in conflict with such code which regulates speed,

direction of travel, passing, stopping, yielding, standing, or parking on any specifically named public street or way; any right or franchise granted by the city; any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments therefor; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; nor shall such repeal affect any ordinance annexing territory to the city.

Section 4. Continuation of existing provisions. Insofar as the provisions of the municipal code are the same as those of ordinances existing and in force on its effective date, said provisions shall be considered to be continuations thereof and not as new enactments.

Section 5. Penalty clause. Unless otherwise specified in a title, chapter or section of the municipal code, including the codes and ordinances adopted by reference, whenever in the municipal code any act is prohibited or is made or declared to be a civil offense, or whenever in the municipal code the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision of the municipal code shall be punished by a civil penalty of not more than fifty dollars ($50.00) and costs for each separate violation; provided, however, that the imposition of a civil penalty under the provisions of this municipal code shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the municipal code or other applicable law. In any place in the municipal code the term "it shall be a misdemeanor" or "it shall be an offense" or "it shall be unlawful" or similar terms appears in the context of a penalty provision of this municipal code, it shall mean "it shall be a civil offense." Anytime the word "fine" or similar term appears in the context of a penalty provision of this municipal code, it shall mean "a civil penalty."[1]

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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[1]State law reference

For authority to allow deferred payment of fines, or payment by installments, see Tennessee Code Annotated, § 40-24-101 et seq.

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 mayor and council members, 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, OCTOBER 4, 2004.

Passed 2nd reading, NOVEMBER 1, 2004.

Mayor

Recorder

ORDINANCE NO. 460

AN ORDINANCE ADOPTING AND ENACTING SUPPLEMENTAL AND REPLACEMENT PAGES FOR THE MUNICIPAL CODE OF THE CITY OF DAYTON, TENNESSEE.

BE IT ORDAINED BY THE MAYOR AND COUNCIL MEMBERS OF THE CITY OF DAYTON, TENNESSEE, THAT:

Section 1. Ordinances codified. The supplemental and replacement pages contained in Change 1 to the City of Dayton Municipal Code, hereinafter referred to as the "supplement," are incorporated by reference as if fully set out herein and are ordained and adopted as part of the City of Dayton Municipal Code.

Change 1 includes revisions required to the municipal code when considering Ordinances Number 450 through 457. Code sections affected contain citations to the amending ordinance at the end of the code section.

Section 2. Continuation of existing provisions. Insofar as the provisions of the supplement are the same as those of ordinances existing and in force on its effective date, the provisions shall be considered to be continuations thereof and not as new enactments.

Section 3. Penalty clause. Unless otherwise specified, wherever in the supplement, including any codes and ordinances adopted by reference, any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or wherever the doing of any act is required or the failure to do any act is declared to be unlawful, the violation of any such provision shall be punishable by a penalty of not more than fifty dollars ($50.00) and costs for each separate violation; provided, however, that the imposition of a penalty under the provisions of this section 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 supplement or the municipal code or other applicable law.

When any person is fined for violating any provision of the supplement and defaults on payment of the penalty, he may be required to perform hard labor, within or without the workhouse, to the extent that his physical condition shall permit, until the penalty is discharged by payment, or until the person, being credited with such sum as may be prescribed for each day's hard labor, has fully discharged the penalty.[1]

Each day any violation of the supplement continues shall constitute a separate offense.

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[1]State law reference

For authority to allow deferred payment of fines, or payment by installments, see Tennessee Code Annotated, section 40-24-101 et seq.

Section 4. Severability clause. Each section, subsection, paragraph, sentence, and clause of the supplement, including any codes and ordinances adopted by reference, are hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause in the supplement shall not affect the validity of any other portion, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

Section 5. Construction of conflicting provisions. Where any provision of the supplement is in conflict with any other provision of the supplement or municipal code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

Section 6. Code available for public use. A copy of the supplement shall be kept available in the office of the recorder for public use and inspection at all reasonable times.

Section 7. Date of effect. This supplement, including all the codes and ordinances therein adopted by reference, shall take effect from and after final passage, the public welfare requiring it, and shall be effective on and after that date.

Passed 1st reading March 7, 2005.

Passed 2nd reading April 4, 2005.

Mayor

David J. Best

Recorder