

**THE
FAYETTEVILLE
MUNICIPAL
CODE**

Prepared by the



Municipal Technical Advisory Service

In cooperation with the Tennessee Municipal League

December 2017

CITY OF FAYETTEVILLE, TENNESSEE

MAYOR

Jon Law

VICE MAYOR

Gwen Shelton

ALDERMEN

Danny Bryant
Violet Harry
Anna Catherine Osteen
Dorothy Small
Michael Whisenant

CITY ADMINISTRATOR

Scott Collins

CITY CLERK

Adriane Gay

CITY ATTORNEY

John D. Hill, Jr.

PREFACE

The Fayetteville Municipal Code contains the codification and revision of the ordinances of the City of Fayetteville, 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 8 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 reimburse MTAS for the actual costs of reproducing replacement pages for the code (no charge is made for the consultant's work, and reproduction costs are usually nominal).

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

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

The able assistance of Sandy Selvage, Nancy Gibson and Kelley Myers, is gratefully acknowledged.

Stephanie Allen O'Hara
Codification Specialist

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

SECTION 13. Ordinance procedure. Each ordinance shall begin with the clause, "Be it ordained by the Board of Mayor and Aldermen of the City of Fayetteville, Tennessee." Each resolution and ordinance shall be in written form before being introduced. An ordinance must pass on one (1) consideration to become effective. Each ordinance before being adopted must have the caption read at the meeting.

Each ordinance upon final passage shall be signed by the presiding officer of the Board, shall be immediately taken charge of by the City Clerk and numbered, copied in an ordinance book and authenticated by the signature of the City Clerk, and filed and preserved in the City Clerk's office.

TITLE 1

GENERAL ADMINISTRATION¹

CHAPTER

1. BOARD OF MAYOR AND ALDERMEN.
2. MAYOR.
3. CITY CLERK.
4. CITY ADMINISTRATOR.
5. COMPENSATION OF COMMISSIONERS OF FAYETTEVILLE HOUSING AUTHORITY.
6. CODE OF ETHICS.

CHAPTER 1

BOARD OF MAYOR AND ALDERMEN²

SECTION

- 1-101. Time and place of regular meetings.
- 1-102. Order of business.
- 1-103. General rules of order.
- 1-104. Standing committees.
- 1-105. Boards and committees to elect officers annually.
- 1-106. Appointments and recommendations of board members.

1-101. Time and place of regular meetings. The regular meeting of the board of mayor and aldermen shall be held on the second Tuesday of each

¹Charter 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.

²Charter references

Compensation: § 10a.

Oath: § 3.

Qualifications: § 4.

Term of office: § 2.

Vacancy in office: § 4.

month at 5:00 P.M. at the city municipal building in the City of Fayetteville except when the second Tuesday shall fall upon a legal holiday, in which event, the meeting shall take place on the second succeeding business day at the same hour and place.

Special meetings may be set by the board or called by the mayor or any two (2) aldermen upon reasonable notice to the other members of the board. (1995 Code, § 1-101)

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

- (1) Call to order by mayor.
- (2) Prayer and Pledge of Allegiance.
- (3) Approval of agenda.
- (4) Any corrections to and approval of the minutes of the previous meeting or meetings.
- (5) Reports:
 - (a) Outside agencies.
 - (b) Standing committees.
- (6) Unfinished business.
- (7) New business.
- (8) Other business.
- (9) Adjournment. (1995 Code, § 1-102, modified)

1-103. General rules of order. The rules of order and parliamentary procedure contained in Robert's Rules of Order, Newly Revised, shall govern the transaction of business by and before the board of mayor and aldermen at its meetings in all cases to which they are applicable and in which they are not inconsistent with provisions of the charter or this code. (1995 Code, § 1-103, modified)

1-104. Standing committees. The four (4) committees of the board of mayor and aldermen shall consist of not less than two (2) aldermen each and shall be as follows:

- (1) Finance,
- (2) Fire and police,
- (3) Public works, and
- (4) IT and planning/codes; and
- (5) Parks and recreation.

The committees shall be elected by the board of mayor and aldermen. (1995, § 1-104, modified)

1-105. Boards and committees to elect officers annually. All boards and committees under the jurisdiction of and established by ordinance

of the board of mayor and aldermen are hereby required to have an annual election of officers. (1995, § 1-105)

1-106. Appointments and recommendations of board members.

No appointment to a board of the city by the mayor, requiring approval of the aldermen, and no recommendation of the mayor for a member to serve on a board of the city, requiring action of the board of mayor and aldermen, shall be considered unless the same shall have been submitted in writing to the aldermen no less than fifteen (15) days prior to the meeting at which the appointment or recommendation is to be acted upon. All vacancies on boards and the names of all board members whose terms expire shall be reported to the board of mayor and aldermen in writing at the regular meeting occurring in the month prior to the meeting at which vacancies are filled or members elected. This shall not apply to standing committees as referred to in § 1-104 hereof or to the appointment of aldermen to the various boards or commissions. (1995 Code, § 1-106)

CHAPTER 2**MAYOR**¹**SECTION**

1-201. Generally supervises city's affairs.

1-202. Executes city's contracts.

1-203. Absence or disability.

1-201. Generally supervises city's affairs. The mayor shall have general supervision of all the affairs of the city and may require such reports from the officers and employees of the city as he may reasonably deem necessary to carry out his executive responsibilities. (1995 Code, § 1-201)

1-202. Executes city's contracts. The mayor shall execute all contracts as authorized by the board of mayor and aldermen. (1995 Code, § 1-202)

1-203. Absence or disability. At the first meeting after each election for aldermen the aldermen shall elect one (1) of their number as vice-mayor for a term of two (2) years to act as mayor during the temporary absence or disability of the mayor. The vice-mayor may continue to vote as an alderman while acting as mayor. (1995 Code, § 1-203)

¹Charter references

Compensation: § 10a.

Oath: § 3.

Qualifications: § 4.

Term of office: § 2.

CHAPTER 3

CITY CLERK

SECTION

1-301. To be bonded.

1-302. To keep minutes, etc.

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

1-301. To be bonded. The city clerk shall execute a bond with good and sufficient security in the sum of one hundred thousand dollars (\$100,000.00), said bond to be conditioned on his or her faithful accounting for all money that may or ought to come into his or her hands, and that may or ought to be collected by him or her by virtue of his or her office, and that he or she will well and truly do and perform all other duties pertaining to the office.

1-302. To keep minutes, etc. The city clerk shall keep the minutes of all meetings of the board of mayor and aldermen and shall preserve the original copy of all ordinances in a separate ordinance book. (1995 Code, § 1-302, modified)

1-303. To perform general administrative duties, etc. The city clerk shall perform all administrative duties for the board of mayor and aldermen and for the city which are not expressly assigned by the charter or this code to another corporate officer. He shall also have custody of, and be responsible for maintaining all corporate bonds, records, and papers in such fireproof vault or safe as the city shall provide. The assistant city clerk shall perform these duties and functions in the absence of the city clerk or at his direction. (1995 Code, § 1-303)

CHAPTER 4

CITY ADMINISTRATOR¹

SECTION

1-401. Office created, salary, tenure, qualifications, bond.

1-402. Duties.

1-401. Office created, salary, tenure, qualifications, bond.

(1) There is hereby created the office of city administrator, which office shall be held by the city clerk. The board of mayor and aldermen shall fix the salary of said administrator. The administrator shall be selected on the basis of training, experience and other administrative qualifications and shall have a college degree and training or experience in municipal administration, public administration or civil engineering. The administrator shall devote full time to the duties of his office.

(2) The city administrator shall execute a bond with good and sufficient security in the sum of one hundred thousand dollars (\$100,000.00), said bond to be conditioned that he will faithfully account for all money that may or ought to come into his hands, and that may or ought to be collected by him by virtue of his office, and that he will well and truly do and perform all other duties pertaining to the office. (1995 Code, § 1-401)

1-402. Duties. The city administrator shall act under the direction of and shall be responsible to the board of mayor and aldermen (hereinafter called board) and shall perform the following duties:

(1) To make recommendations to the board for improving the quality and quantity of public services to be rendered by the officers and employees to the inhabitants of the city.

(2) To keep the board fully advised as to the conditions and needs of the city.

(3) To report to the board the condition of all city equipment, buildings and real estate and recommend what repairs or replacements are needed.

(4) To act as purchasing agent for the city and make all purchases on behalf of the City of Fayetteville general government consistent with the Charter of the City of Fayetteville.

(5) To supervise and coordinate all administrative activities of each department of the city under the policies of the board.

(6) To consult and cooperate with the various committees of the board in the administration of the affairs of the City of Fayetteville.

¹Charter reference: § 8.

(7) To determine what programs or projects involving public works or public improvements should be undertaken by the city and priority of same.

(8) To carry out the personnel ordinances, rules and regulations adopted and approved by the board.

(9) To prepare and submit the annual budget and capital program to the board.

(10) To approve all proposed expenditures and prevent the incurring of any obligation without such approval and unless funds are available for the expenditures.

(11) To keep the board fully advised as to the financial condition and future needs of the city and make such recommendations to the board concerning the affairs of the city as he deems desirable.

(12) To meet and confer with the mayor and such department heads at such times and places as the mayor deems advisable.

(13) To perform such other duties as may be required of him by resolution of the board. (1995 Code, § 1-402, modified)

CHAPTER 5

**COMPENSATION OF COMMISSIONERS OF FAYETTEVILLE
HOUSING AUTHORITY¹****SECTION**

1-501. Compensation of commissioners of Fayetteville Housing Authority.

1-501. Compensation of commissioners of Fayetteville Housing Authority. Each commissioner of the Fayetteville Housing Authority shall be paid the sum of two hundred dollars (\$200.00) per month for their services on the authority board provided that no part of said compensation shall be paid from state or federal funds. (1995 Code, § 1-501)

¹Municipal code reference

Housing cooperation to cooperate with housing authority: § 20-205.

CHAPTER 6

CODE OF ETHICS¹

SECTION

- 1-601. Applicability.
- 1-602. Definition of "personal interest."
- 1-603. Disclosure of personal interest by official with vote.
- 1-604. Disclosure of personal interest in non-voting matters.
- 1-605. Acceptance of gratuities, etc.
- 1-606. Use of information.
- 1-607. Use of municipal time, facilities, etc.
- 1-608. Use of position or authority.
- 1-609. Outside employment.
- 1-610. Ethics complaints.
- 1-611. Violations and penalty.

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

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

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

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

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

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

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

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

1-601. 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. (1995 Code, § 1-601)

1-602. Definition of "personal interest." (1) For purposes of §§ 1-603 and 1-604, "personal interest" means:

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

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

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

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

(3) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter. (1995 Code, § 1-602)

1-603. Disclosure of personal interest by official with vote. An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself¹ from voting on the measure. (1995 Code, § 1-603)

1-604. Disclosure of personal interest in non-voting matters. An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or

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

policy, recuse himself from the exercise of discretion in the matter. (1995 Code, § 1-604)

1-605. Acceptance of gratuities, etc. An official or employee may not accept, directly or indirectly, any money, gift, gratuity, or other consideration or favor of any kind from anyone other than the municipality:

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

(2) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business. (1995 Code, § 1-605)

1-606. 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. (1995 Code, § 1-606)

1-607. 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 interest of the municipality. (1995 Code, § 1-607)

1-608. Use of position or authority. (1) An official or employee may not make or attempt to make private purchases, for cash or otherwise, in the name of the municipality.

(2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the municipality. (1995 Code, § 1-608)

1-609. 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. (1995 Code, § 1-609)

1-610. Ethics complaints. (1) The city attorney is designated as the ethics officer of the municipality. Upon the written request of an official or employee potentially affected by a provision of this chapter, the city attorney may render an oral or written advisory ethics opinion based upon this chapter and other applicable law.

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

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

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

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

(4) When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this code of ethics. (1995 Code, § 1-610)

1-611. Violations and penalty. An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the municipality's charter or other applicable law, and in addition is subject to censure by the governing body. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (1995 Code, § 1-611)

TITLE 2**BOARDS AND COMMISSIONS, ETC.****CHAPTER**

1. SCHOOL BOARD.
2. RECREATION BOARD.
3. CITY BEAUTIFICATION COMMISSION.
4. BOARD OF PUBLIC UTILITIES.

CHAPTER 1**SCHOOL BOARD¹****SECTION**

- 2-101. Board established.
2-102. Membership.
2-103. Organization.

2-101. Board established. There is hereby established "The Fayetteville School Board" which board shall have general supervision, management and control of the City of Fayetteville school system as provided in the *Tennessee Code Annotated*. (1995 Code, § 2-101)

2-102. Membership. (1) Eligibility. Every member shall be a resident and qualified voter of the City of Fayetteville.

(2) Compensation. Each member of the board shall be paid the sum of two hundred dollars (\$200.00) per month for his or her services on the board, including the chairman and secretary. Board members shall be reimbursed for all legitimate expenses incurred relative to the performance of their official duties.

(3) Number and appointment. Said board shall consist of six (6) members, all of whom shall be elected by the people. Each member shall be elected to a four (4) year term. Elections shall be held on the Tuesday after the first Monday in even years, with three (3) members being elected in years when a gubernatorial election is held and three (3) members being elected in years when a presidential election is held. Each elected member of the school board shall be sworn in as a member on the third Tuesday after the first Monday of November in the year of his or her election.

¹The current school bus franchise is available in the city clerk's office.

(4) Vacancy. Vacancies occurring in the office of a school board member shall be filled by the board of mayor and alderman until the next city election when school board positions are on the ballot. When the remaining term of a vacant position is more than two years in duration when the vacancy arises, the person appointed by the board to fill the vacancy shall serve until the next city election. At the next city election, the three (3) candidates for school board positions receiving the highest number of votes shall serve full four (4) year terms. The candidate(s) receiving the next highest number(s) of votes shall serve the final two (2) years of the original term(s) of the vacant position(s).

(5) Liaison officer. The board of mayor and alderman may appoint an alderman to serve as a non-voting liaison officer to the school board for such term as it desires but not longer than the term of the alderman. Such alderman shall be entitled to reimbursement of all legitimate expenses incurred relative to the performance of his or her official duties. All other provisions of title 2, chapter 1 shall remain effective. (Ord. #2014-26, Dec. 2014)

2-103. Organization. The board shall organize itself and elect a chairman, secretary and such other officers as it deems appropriate. Minutes of all meetings shall be kept in a minute book which shall remain in the custody of the secretary and be open to public inspection. (1995 Code, § 2-103)

CHAPTER 2

RECREATION BOARD

SECTION

- 2-201. Establishment and powers generally.
- 2-202. Membership eligibility.
- 2-203. Compensation of members.
- 2-204. Number of members and their appointment.
- 2-205. Terms of members.
- 2-206. Organization of board.
- 2-207. Removal of board members.

2-201. Establishment and powers generally. There is hereby established a City of Fayetteville Recreation Board, hereinafter called "board," which board shall have general supervision, management, and control of all of the recreational facilities and programs of the City of Fayetteville, except that all personnel of the recreation department shall be under the direction of the city administrator. (1995 Code, § 2-201, modified)

2-202. Membership eligibility. Every board member shall be a resident and qualified voter of the City of Fayetteville. (1995 Code, § 2-202, modified)

2-203. Compensation of members. Members of the recreation board shall serve without pay, but shall be reimbursed for all legitimate expenses incurred relative to the performance of their official duties.

2-204. Number of members and their appointment. Said board shall consist of eight (8) members, who shall be appointed by the mayor and approved by the board of aldermen. One (1) of the members shall be an alderman of the city. All members shall continue in office until their successors are elected. If any member shall resign from or cease to be a member of the board before the expiration of his/her term, the mayor shall appoint a new member to serve for such member's unexpired term. (1995 Code, § 2-204, modified)

2-205. Terms of members. All appointments shall be for a term of three (3) years. The alderman member shall serve only a two (2) year term to run concurrently with his or her term as alderman. (1995 Code, § 2-205, modified)

2-206. Organization of board. The board shall meet as soon as possible and adopt bylaws, select officers, and adopt reasonable rules and regulations for the operation of the recreation system. (1995 Code, § 2-206)

2-207. Removal of board members. Any member of the recreation board may be removed at any time by a two-thirds (2/3) vote of the board of mayor and aldermen. (1995 Code, § 2-207)

CHAPTER 3

CITY BEAUTIFICATION COMMISSION

SECTION

- 2-301. Establishment and general duties.
- 2-302. Membership, terms, and compensation.
- 2-303. Bylaws and rules of procedure.
- 2-304. Qualifications of members.
- 2-305. Commission to make recommendations; board to establish policies.
- 2-306. Long range plan to list early priorities.

2-301. Establishment and general duties. There is hereby established the "Fayetteville City Beautiful Commission," hereinafter referred to as the "commission," the commission is charged with the duty and obligation to study, investigate, and carry out plans for improving the sanitation, safety, and cleanliness within the city by beautifying the streets, highways, alleys, lots, yards, and other similar places; to aid in the prevention of fires, diseases, and other casualties by the removal and elimination of trash and other debris from the streets, highways, alleys, lots, yards, plots and other similar places; to encourage the planting, placing, and preservation of trees, flowers, plants, shrubbery, and other objects of ornamentation in the city; and to promote public interest in the general improvement of the appearance of the city; provided, however, that nothing herein shall be construed to abridge, or change the powers and duties of the other branches of the local government. (1995 Code, § 2-401, modified)

2-302. Membership, terms, and compensation. The commission shall consist of five (5) members with the mayor of the city and the recreation director to serve as ex officio and nonvoting members. The members shall be appointed by the mayor and approved by the aldermen for four (4) year terms. All appointments shall be made at the board meeting following each mayoral election when other committee appointments are made. Said members shall serve without compensation. (1995 Code, § 2-402, modified)

2-303. Bylaws and rules of procedure. The commission shall, during its first meeting or as soon thereafter as practicable, adopt bylaws for the operation of said commission, which bylaws, in addition to other matters, shall set the number necessary for a quorum and the procedure for the calling of meetings. (1995 Code, § 2-403)

2-304. Qualifications of members. Every commission member shall be a qualified voter of the City of Fayetteville. (1995 Code, § 2-404)

2-305. Commission to make recommendations; board to establish policies. The commission shall make recommendations to the board of mayor and aldermen who will have authority to establish policies for the commission. (1995 Code, § 2-405)

2-306. Long range plan to list early priorities. The commission will, as soon as possible, obtain a long range plan for city improvement and beautification which will list the early priorities. (1995 Code, § 2-406)

CHAPTER 4

BOARD OF PUBLIC UTILITIES¹

SECTION

2-401. Board to supervise and control; membership; terms.

2-402. Board to govern water and sewer system and gas system.

2-401. Board to supervise and control; membership; terms. The provisions of Private Acts of 1963, ch. 8,² shall be performed, complied with, carried out and made effective insofar as the board of mayor and aldermen is required to act.

The board of mayor and aldermen of the City of Fayetteville, Tennessee, acting in compliance with, and conformity to §§ 3 and 4 of said private act, does hereby create and establish a board of public utilities to supervise and control the management and operation of the consolidated electric system, which board shall have all the rights, powers, privileges, duties, and responsibilities with respect to the consolidated electric system as a board of public utilities has under *Tennessee Code Annotated*, §§ 7-52-101 to 7-52-203, as amended, with respect to the electric system under its control and supervision.

The utility board shall consist of seven (7) members appointed by the mayor and approved by the board of aldermen, with the mayor to serve as an ex-officio and non-voting member. Two (2) of the appointees shall be residents of the city, qualified as provided in *Tennessee Code Annotated*, §§ 7-52-107 *et seq.*, as amended. Four (4) of the appointees shall own property and reside outside the corporate limits of the city, shall be electric consumers of the consolidated electric system, and otherwise shall be qualified as provided in the aforesaid *Tennessee Code Annotated*, §§ 7-52-107 *et seq.*, as amended. The seventh member of the board shall be an alderman of the city whose term of office shall be two (2) years. Any appointee may be appointed to successive terms. (1995 Code, § 2-501, modified)

2-402. Board to govern water and sewer system and gas system. Under authority granted by Chapter No. 8 of the Private Acts of 1962 and *Tennessee Code Annotated*, § 7-52-111, the board of public utilities shall govern the Fayetteville Water and Sewer System and the Fayetteville Gas System and the telecommunications and internet department. All assets, liabilities, and authority of the former water and sewer board and the former gas board are

¹Municipal code reference
Electrical code: title 12.

²This act has been codified as § 9b in the unofficial compilation of Fayetteville's charter acts as set out in the front of this code of ordinances.

transferred to the board of public utilities. In accordance with *Tennessee Code Annotated*, § 7-52-111(b), the board of public utilities shall keep separate accounts for the electric plant and each works, making due and proper allocation of all joint expenses, revenues and property valuations. (1995 Code, § 2-502, modified)

TITLE 3

MUNICIPAL COURT

CHAPTER

1. CITY JUDGE.
2. COURT ADMINISTRATION.
3. WARRANTS, SUMMONSES AND SUBPOENAS.
4. BONDS AND APPEALS.
5. LITIGATION TAX.

CHAPTER 1

CITY JUDGE¹

SECTION

3-101. City judge.

3-101. City judge. The judge, as provided in the charter, shall preside over the city court. (1995 Code, § 3-101)

¹Charter references: §§ 11 and 12.

CHAPTER 2

COURT ADMINISTRATION

SECTION

- 3-201. Maintenance of docket.
- 3-202. Imposition and remission of fines and costs.
- 3-203. Disposition and report of fines and costs.
- 3-204. Trial and disposition of cases.
- 3-205. Electronic citation regulations and fees.

3-201. Maintenance of docket. A complete docket of all matters coming before the municipal court shall be kept which shall include for each defendant such information as his or her name; summons numbers; alleged offense; disposition; fines and costs imposed; and all other information that may be relevant. (1995 Code, § 3-201, modified)

3-202. Imposition and remission of fines and costs. All fines and costs shall be imposed and recorded by the court clerk on the city court docket in open court. After any fines and costs have been so imposed and recorded, the judge shall have no power to remit or release the same or any part thereof except when necessary to correct an error.

Costs of each case shall be seventy dollars (\$70.00) and special police fund, ten dollars (\$10.00). (1995 Code, § 3-202, modified)

3-203. Disposition and report of fines and costs. All funds coming into the hands of the court in the form of fines, costs, and forfeitures shall be recorded and paid over daily to the municipality. (1995 Code, § 3-203, modified)

3-204. Trial and disposition of cases. Every person charged with violating a municipal ordinance shall be entitled to a speedy trial and disposition of his or her case, provided the city court is in session. However, the provisions of this section shall not apply when the alleged offender, by reason of drunkenness or other incapacity, is not in a proper condition or is not able to appear before the court. (1995 Code, § 3-205, modified)

3-205. Electronic citation regulations and fees. (1) As used in this section, "electronic citation" means a written citation or an electronic citation prepared by a law enforcement officer on paper or on an electronic data device with the intent the citation shall be filed, electronically or otherwise, with a court having jurisdiction over the alleged offense.

(2) Pursuant to and in accordance with state statutory requirements found in *Tennessee Code Annotated*, § 55-10-207(e), each court clerk shall

charge and collect an electronic citation fee of five dollars (\$5.00) for each citation which results in a conviction. (Ord. #2015-02, April 2015)

CHAPTER 3

WARRANTS, SUMMONSES AND SUBPOENAS

SECTION

3-301. Issuance of summonses.

3-302. Issuance of subpoenas.

3-303. Designation of certain municipal enforcement officers as having the authority to issue ordinance summonses.

3-301. Issuance of summonses. When a complaint of an alleged ordinance violation is made to the judge, he may issue a summons, ordering the alleged offender to personally appear before the judge at a time specified therein to answer to the charges against him. The summons shall contain a brief description of the offense charged but need not set out verbatim the provisions of the ordinance alleged to have been violated. Upon failure of any person to appear before the judge as commanded in a summons lawfully served on him, the cause may be proceeded with ex parte and the judgment of the judge shall be valid and binding subject to the defendant's right of appeal. (1995 Code, § 3-302, modified)

3-302. Issuance of subpoenas. The judge may subpoena as witnesses all persons whose testimony he believes will be relevant and material to matters coming before his court, and it shall be unlawful for any person lawfully served with such a subpoena to fail or neglect to comply therewith. (1995 Code, § 3-303)

3-303. Designation of certain municipal enforcement officers as having the authority to issue ordinance summonses. The Mayor and Aldermen of the City of Fayetteville, hereby designate the director of public works as having the authority to issue ordinance summons in the area of sanitation and the building official as having the authority to issue ordinance summons in the area of litter control, construction and zoning codes members of the fire department in the area of fire codes and fire prevention, and the animal control officer as having authority to issue ordinance summons in the area of animal control as provided in *Tennessee Code Annotated*, §§ 7-63-201 to 7-63-204.

Such enforcement officers who witness a violation of any ordinance, law or regulation in those areas in which they have been given the authority to issue ordinance summonses may issue an ordinance summons and give the summons to the offender.

The ordinance summons shall contain the name and address of the person being summoned and such other information necessary to identify and give the person cited 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 have a summons issued by the clerk of the city court or 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 for in citations in lieu of arrest in non-traffic cases.

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. (1995 Code, § 3-304)

CHAPTER 4

BONDS AND APPEALS

SECTION

3-401. Appeals.

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

3-401. Appeals. Any defendant who is dissatisfied with any judgment of the judge against him may, within ten (10) days next after such judgment is rendered, appeal to the next term of the circuit court upon posting a proper appeal bond.¹ (1995 Code, § 3-402)

3-402. Bond amounts, conditions, and forms. An appeal bond in any case shall be in the sum of two hundred fifty dollars (\$250.00) and shall be conditioned that if the circuit court shall find against the appellant the fine and all costs of the trial and appeal shall be promptly paid by the defendant and/or his sureties. An appeal bond in any case may be made in the form of a cash deposit or by any corporate surety company authorized to do business in Tennessee or by two (2) private persons who individually own real property located within the county. No other type bond shall be acceptable. (1995 Code, § 3-403, modified)

¹State law reference

Tennessee Code Annotated, § 27-5-101.

CHAPTER 5**LITIGATION TAX****SECTION**

3-501. Litigation tax.

3-501. Litigation tax. Effective on the first day of the month following the passage and publication of this section, a city litigation tax shall become effective as follows:

(1) On cases in city court, there is hereby levied a city litigation tax to match the state litigation tax of thirteen dollars seventy-five cents (\$13.75).

(2) The privilege taxes levied pursuant to this section shall be paid to the city recorder monthly to be used to assist in paying for the operation of city court and the police department. (1995 Code, § 3-501)

TITLE 4

MUNICIPAL PERSONNEL

CHAPTER

1. SOCIAL SECURITY FOR OFFICERS AND EMPLOYEES.
2. PERSONNEL SYSTEM.
3. MISCELLANEOUS PERSONNEL REGULATIONS.
4. RETIREES' HEALTH INSURANCE SUPPLEMENT FUND.
5. TRAVEL REIMBURSEMENT REGULATIONS.
6. LIFE INSURANCE PROGRAM.
7. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.

CHAPTER 1

SOCIAL SECURITY FOR OFFICERS AND EMPLOYEES

SECTION

- 4-101. Policy and purpose as to coverage.
- 4-102. Withholdings from salaries or wages.
- 4-103. Appropriations for employer's contributions.
- 4-104. Records and reports to be made.
- 4-105. Effective date of coverage.

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. (1995 Code, § 4-101)

4-102. 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. (1995 Code, § 4-103)

4-103. 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. (1995 Code, § 4-104)

4-104. 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. (1995 Code, § 4-105)

4-105. Effective date of coverage. The coverage herein provided for shall be effective as of January 1, 1953, with respect to governmental personnel and effective as of October 1, 1952, with respect to personnel in the electric and gas distribution systems. (1995 Code, § 4-106)

CHAPTER 2

PERSONNEL SYSTEM

SECTION

4-201. General provisions.

4-202. Definitions.

4-203. Coverage.

4-204. Personnel rules.

4-201. General provisions. (1) This chapter shall be known as the "Personnel System Chapter."

(2) A personnel system for the City of Fayetteville, is hereby established for the purpose of providing a personnel policy under which entry into and continuance in the service of the city shall be on the basis of merit, efficiency, and fitness, free of personal and political considerations.

(3) It is hereby the declared personnel policy of the City of Fayetteville, Tennessee, that:

(a) Employment in the city government shall be based on merit, efficiency, and fitness, free of personal and political considerations;

(b) Just and equitable incentives and conditions of employment shall be established and maintained to promote efficiency and economy in the operation of the municipal government;

(c) Positions having similar duties and responsibilities shall be classified and compensated for on a uniform basis;

(d) Appointments, promotions, and other personnel actions requiring the application of the merit principle shall be based on systematic tests and evaluation;

(e) Every effort shall be made to stimulate high morale by fair administration of this chapter and by every consideration of the rights and interests of employees, consistent with the best interests of the public and the city;

(f) Tenure and compensation of employees covered by this chapter shall be subject to good behavior, satisfactory performance of work, necessity for the performance of work, and authorization of available funds.

(4) No provision of this chapter shall be implemented, and no persons shall be employed, or salaries or wages changed, unless the necessary appropriations are provided in the annual budget on adoption or by amendment. (1995 Code, § 4-201)

4-202. Definitions. As used in this chapter, the following quoted words and terms shall have the meanings enumerated hereinafter:

(1) "Municipality" or "city" shall mean the City of Fayetteville.

- (2) "Chief executive" shall mean the Mayor of the City of Fayetteville.
- (3) "Governing body" shall mean the board of mayor and aldermen vested with power to enact ordinances and resolutions for the City of Fayetteville.
- (4) All those definitions as listed in rule II of the personnel rules and regulations. (1995 Code, § 4-202)

4-203. Coverage. All offices and positions of the city are divided into the classified service and the exempt service. The exempt service shall include the following:

- (1) All elected officials and persons appointed to fill vacancies in elective offices.
- (2) The chief administrative officer.
- (3) All members of appointive boards, commissions, or committees.
- (4) City judge.
- (5) City attorney.
- (6) Consultants, advisors, and counsel rendering temporary professional service.
- (7) Independent contractors.
- (8) Emergency employees who are hired to meet the immediate requirements of an emergency condition, such as extraordinary fire, flood, or earthquake which threatens life or property.
- (9) Seasonal employees who are employed by the city for not more than three (3) months during the fiscal year.
- (10) Volunteer personnel, such as volunteer firemen and reserve police officers; and all other personnel appointed to serve with or without compensation.

The classified service shall include all other full-time positions in the city service which are not specially placed in the exempt service in this section. (1995 Code, § 4-203, modified)

4-204. Personnel rules. The city administrator shall be responsible for the preparation of such personnel rules and amendments thereto as may be necessary to carry out the provisions of this chapter, which rules and amendments may be adopted by resolution of the board of mayor and aldermen and shall be effective immediately upon such adoption. (1995 Code, § 4-204)

CHAPTER 3**MISCELLANEOUS PERSONNEL REGULATIONS****SECTION**

4-301. Business dealings.

4-301. Business dealings. Except for the receipt of such compensation as may be lawfully provided for the performance of his duties, it shall be unlawful for any city officer or employee to be privately interested in, or to profit, directly or indirectly, from business dealings with the city. (1995 Code, § 4-301)

CHAPTER 4

RETIREES' HEALTH INSURANCE SUPPLEMENT FUND

SECTION

4-401. Health insurance for retired employees.

4-401. Health insurance for retired employees. (1) To obtain health insurance through the City of Fayetteville retirees' health insurance program, a retiree must be eligible for retirement under the TCRS and meet at least one (1) of the following sets of conditions:

(a) Be fifty-five (55) years of age with a minimum of twenty (20) years of employment with the city and participation in the health insurance program for at least twelve (12) consecutive months immediately prior to retirement.

(b) Be any age with a minimum of thirty (30) years of employment with the city and participation in the health insurance program for at least twelve (12) consecutive months immediately prior to retirement.

(c) Have a minimum of ten (10) years of continuous employment with the city, be covered through the TCRS as a disability retirement and participation in the city's health insurance program for at least twelve (12) consecutive months immediately prior to retirement.

(2) Premium supplement covers all eligible employees retiring after July 1, 1994, through the TCRS subject to the following:

(a) For those retirees who qualify by meeting the requirements of subsections (1)(c) above, the city will pay one hundred percent (100%) of the retiree's individual health coverage monthly premium for a period of twenty-four (24) months from the time of retirement. If, at the end of twenty-four (24) month period, the retiree has a pending appeal with the Social Security Administration, the city will pay one hundred percent (100%) of the retiree's individual health coverage monthly premium until the date of the completion of the appeal.

(b) For those retirees who qualify by meeting the requirements of only subsection (c) above, the city will pay one hundred percent (100%) of the retiree's individual health coverage monthly premium for a period of twenty-four (24) months from the time of retirement. If, at the end of the twenty-four (24) period, the retiree has a pending appeal with the Social Security Administration, the city will pay one hundred percent (100%) of the retiree's individual health coverage monthly premium until the date of the completion of the appeal.

(c) The policy of the city's contribution to the retirees' health insurance premium shall remain in effect until the end of the fiscal year

in which the policy is passed and shall only be continued thereafter through annual appropriations within the budget each year.

(d) If the city terminates the health insurance program for retirees after the current fiscal year, each participating retiree shall receive notice of such termination at least six (6) months prior to the date such termination will be effective.

(e) If the city otherwise alters the health insurance program for retirees after the current fiscal year, including but not limited to making an adjustment in the percentage of the premium the city will pay on behalf of each retiree, each participating retiree shall receive notice of such alteration at least one (1) month prior to the date such alteration will be effective.

(f) The retired employee's life insurance policy shall be continued with coverage of ten thousand dollars (\$10,000.00) in the event of the death of the retiree subject to the provisions set forth in (2)(c) above or until such time the retiree is no longer eligible through the insurance carrier.

(3) Retirees may decline the health insurance coverage provided by the city and receive a stipend for life insurance coverage in lieu thereof, subject to the following:

(a) Coverage will be provided for the same duration of time as provided in subsections (2)(a) and (2)(b) above.

(b) Payment will be provided directly to an insurance company chosen by the retiree.

(c) Payment shall not exceed one hundred dollars (\$100.00) per month.

(d) A retiree eligible for this coverage shall meet the same requirements as outlined above for health insurance eligibility.

(e) A retiree receiving health insurance at the time of passage of this section may choose this option in place of his or her current benefit.

(4) Family coverage shall be available only if the retiree maintained such coverage for at least twelve (12) consecutive months immediately prior to retirement. Family members may continue coverage upon the death of the retiree provided the premium is paid by the family members as stated herein and allowed by the insurance carrier through the Consolidated Omnibus Budget Reconciliation Act.

(5) Each participating retiree is responsible for the payment of one hundred percent (100%) of family premiums. Premiums are due on the first day of the month. Any participating retiree who fails to pay the premium shall be given written notice that coverage will be terminated within five (5) business days of the date of the written notice. Failure to make such payment within the five (5) business day period following written notice shall result in complete and permanent cancellation of the coverage.

(6) Should the city's health insurance carrier discontinue coverage for retirees, the city will make every reasonable effort to obtain other health insurance coverage; however, the city is under no obligation to provide health insurance coverage and may terminate the program at any time. (1995 Code, § 4-401, modified)

CHAPTER 5

TRAVEL REIMBURSEMENT REGULATIONS

SECTION

- 4-501. Purpose.
- 4-502. Enforcement.
- 4-503. Travel policy.
- 4-504. Travel reimbursement rate schedules.
- 4-505. Administrative procedures.
- 4-506. Travel reconciliation.
- 4-507. Disciplinary action.

4-501. Purpose. The purpose of this chapter and referenced regulations is to bring the city into compliance with *Tennessee Code Annotated*, §§ 6-54-901 to 6-54-907. This law requires Tennessee municipalities to adopt travel and expense regulations covering expenses incurred by "any mayor and any member of the local governing body and any board or committee member elected or appointed by the mayor or local governing body, and any official or employee of the municipality whose salary is set by charter or general law."

To provide consistent travel regulations and reimbursement, this chapter is expanded to cover regular city employees. It is the intent of this policy to assure fair and equitable treatment to all individuals traveling on city business at city expense. (1995 Code, § 4-501)

4-502. Enforcement. The Chief Administrative Officer (CAO) of the city or his or her designee shall be responsible for the enforcement of these travel regulations. (1995 Code, § 4-502)

4-503. Travel policy. (1) In the interpretation and application of this chapter, the term "traveler" or "authorized traveler" means any elected or appointed municipal officer or employee, including members of municipal boards and committees appointed by the mayor or the municipal governing body, and the employees of such boards and committees who are traveling on official municipal business and whose travel was authorized in accordance with this chapter. "Authorized traveler" shall not include the spouse, children, other relatives, friends, or companions accompanying the authorized traveler on city business, unless the person(s) otherwise qualifies as an authorized traveler under this chapter.

(2) Authorized travelers are entitled to reimbursement of certain expenditures incurred while traveling on official business for the city. Reimbursable expenses shall include expenses for transportation; lodging; meals; registration fees for conferences, conventions and seminars; and other

actual and necessary expenses related to official business as determined by the CAO.

(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 are not 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. Expenses considered excessive will not be allowed.

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

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

(9) Mileage and motel expenses incurred within the city are not ordinarily considered eligible expenses for reimbursement. (1995 Code, § 4-503, modified)

4-504. Travel reimbursement rate schedules. Authorized travelers shall be reimbursed according to the federal travel regulation rates. The city's travel reimbursement rates will automatically change when the federal rates are adjusted. The municipality may pay directly to the provider for expenses such as meals, lodging and registration fees for conferences, conventions, seminars and other education programs. (1995 Code, § 4-504)

4-505. Administrative procedures. (1) Travel requests. To ensure reimbursement for official travel, an approved travel authorization form is required. Lack of pre-approval does not prohibit reimbursement, but it does assure reimbursement within the limits of the city travel policy. All costs associated with the travel should be reasonably estimated and shown on the travel authorization form. An approved authorization form is needed before advanced expenses are paid or travel advances are authorized. This form must

be submitted one (1) week prior to the travel time. A copy of the conference program should be attached to the form. If the program is not available prior to the travel, submit it with the reimbursement form.

(2) Travel documentation. (a) It is the responsibility of the authorized traveler to:

- (i) Prepare and accurately describe the travel;
- (ii) Certify the accuracy of the reimbursement request;
- (iii) Note on the reimbursement form all direct payments and travel advances made by the city; and
- (iv) File the reimbursement form with the necessary supporting documents and original receipts.

The reimbursement form must be filed with the city administrator within ten (10) days of return or at the end of the month, whichever comes first.

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

If the traveler goes outside the state by means other than air, the reimbursement will be limited to air fare at tourist or economy class, ordinary expenses during the meeting dates, and one (1) day's meals and motel before and after the meeting. The traveler will be required to take annual leave or comp time for any additional time taken beyond the day before and the day after the meeting dates.

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

- (i) Actual expenses incurred; or
- (ii) Amount that would have been incurred for the business portion only. The calculations for the business portion of the trip must be made using the least expensive rates available.

(c) Air travel. All expenses and savings associated with extending the trip must be submitted with the expense reimbursement form.

- (i) When possible, the traveler should make full use of discounts for advance airline reservations and advance registration. The traveler should request conference, government, or weekend rates, whichever is cheaper, when making lodging or rental car reservations. The city will pay for tourist or economy class air travel. The traveler should get the cheapest reasonable fare and take advantage of discount fares. Airline travel can be paid by direct billing to the city.

(ii) Mileage credits for frequent flyer programs accrue to the individual traveler. However, the city will not reimburse for additional expenses – such as circuitous routing, extended stays, layovers to schedule a particular carrier, upgrading from economy to first class – for travelers to accumulate additional mileage or for other personal reasons.

(iii) The city will not reimburse travel by private aircraft unless authorized in advance by the CAO.

(d) Rail or bus. The city will pay for actual cost of ticket.

(e) Vehicles. Automobile transportation may be used when a common carrier cannot be scheduled, when it is more economical, when a common carrier is not practical, or when expenses can be reduced by two (2) or more city employees traveling together.

(i) Personal vehicle. Employees should use city vehicles when possible. Use of a private vehicle must be approved in advance by the CAO. The city will pay a mileage rate not to exceed the rate allowed by the federal schedule. The miles for reimbursement shall be paid from work office to destination and back by the most direct route or from employee's home if this distance is shorter. Necessary vicinity travel related to official city business may be reimbursed. However, mileage in excess of the Rand McNally (www.randmcnally.com) mileage must be documented as necessary and business-related. If an indirect route is taken, the Rand-McNally mileage table will be used to determine the mileage to be reimbursed.

If a privately owned automobile is used by two (2) or more travelers on the same trip, only the traveler who owns or has custody of the automobile will be reimbursed for mileage. It is the responsibility of the traveler to provide adequate insurance to hold harmless the city for any liability from the use of the private vehicle.

In no event will mileage reimbursement, plus vicinity travel and associated automobile costs, exceed the lowest reasonable available air fare and associated air fare travel costs.

Travelers will not be reimbursed for automotive repair or breakdowns when using their personal vehicle.

(ii) City vehicle. The city may require the employee to drive a city vehicle. If a city vehicle is provided, the traveler is responsible for seeing that the vehicle is used properly and only for acceptable business. The employee will be reimbursed for expenses directly related to the actual and normal use of the city vehicle when proper documentation is provided. Fuelman is the city's preferred gas and diesel provider when out of town. Many service stations display the Fuelman sign. Check the internet for the

Fuelman stations before leaving on the trip. The station attendant can be checked before refueling. The amount used is discounted and saves city budgets. Out-of-town repair costs to the city vehicle in excess of one hundred dollars (\$100.00) must be cleared with the CAO before the repair is authorized.

(iii) Rental cars. Use of a rental car is not permitted unless it's less expensive or otherwise more practical than public transportation. Approval of car rental is generally required in advance by the CAO. Always request the government or weekend rate, whichever is cheaper. Anyone who uses a rental car for out-of-state travel must obtain liability coverage from the vendor.

(A) Fines for traffic or parking violations will not be reimbursed by the city.

(B) Reasonable tolls will be allowed when the most direct travel route requires them.

(f) Taxi, limousine and other transportation fares. When an individual travels by common carrier, reasonable fares will be allowed for necessary ground transportation. Bus or limousine service to and from airports should be used when available and practical. The city will reimburse mileage for travel to and from the local airport and parking fees, provided such costs do not exceed normal taxi/limousine fares to and from the airport. Receipts are required.

For travel between lodging quarters and meetings, conferences, or meals, reasonable taxi fares will be allowed. Remember, original receipts are required for claims of five dollars (\$5.00) or more or per diem rates will be paid.

Transportation to and from shopping, entertainment, or other personal trips is the choice of the traveler and not reimbursable.

Reimbursement claims for taxis, limousines, or other ground transportation must be listed separately on the expense form, claiming the destination and amount of each fare.

(4) Lodging. The amount allocated for lodging shall not ordinarily exceed the maximum per diem rates authorized by the federal rate schedule.

(a) If the city reimburses using the federal rates, the Government Services Administration provides guidelines for determining the maximum that can be reimbursed for lodging. These amounts are available on line at <http://www.gsa.gov>. The rates are the maximum reimbursable rates for hotel rooms plus appropriate taxes.

(b) Original lodging receipts must be submitted with the reimbursement form. Photocopies are not acceptable; however, fax copies will be accepted with approval of the CAO.

(c) If a traveler exceeds the maximum lodging per diem, excess costs are the responsibility of the traveler.

(d) If the best rate is secured, and it still exceeds the maximum lodging per diem, the CAO may authorize a higher reimbursement amount.

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

(e) If two (2) or more city employees travel together and share a room, the lodging reimbursement rate will be the maximum of two (2) single rooms. If an employee shares a room with a non-employee, the actual cost will be allowed up to the maximum reimbursable amount. The receipt for the entire amount must be submitted with the expense form.

(5) Meals and incidentals. Receipts are not required for meals and incidentals under five dollars (\$5.00). The authorized traveler may be reimbursed the daily amount based on the rate schedule and the authorized length of stay. The per diem meal amounts are expected to cover meals, and incidental expenses.

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

Meal	If departure before	If return after
Breakfast	7:00 A.M.	8:00 A.M.
Lunch	11:00 A.M.	1:30 P.M.
Dinner	5:00 P.M.	6:30 P.M.

The hour and date of departure and return must be shown on the expense reimbursement form.

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

(6) Miscellaneous expenses. (a) Registration fees for approved conferences, conventions, seminars, meetings and other educational programs will be allowed and will generally include the cost of official banquets, meals, lodging and registration fees. Registration fees should

be specified on the original travel request form and can include a request for pre-registration fee payment.

(b) A four dollar (\$4.00) allowance will be reimbursable for hotel/motel check-in and baggage handling expenses.

(c) Laundry and valet service are considered personal expenses and are not reimbursable.

(d) Tips for meals, cab fares, and other transportation, must be documented on the travel form. Receipts are not mandatory; however, where practical, tip receipts should be requested. Tips may not exceed normal and customary for the area. (Generally twenty percent (20%) or less is standard.)

(e) For travel outside the United States, all expenses claimed must be converted to U.S. dollars. The conversion rate and computation should be shown on each receipt.

(7) Entertainment. The city may pay for certain entertainment expenses provided that this:

(a) Entertainment is appropriate in the conduct of city business;

(b) Entertainment is approved by the CAO;

(c) Group or individuals involved are identified; and

(d) Documentation is attached to the expense form to support the entertainment expense claims.

To request reimbursement for authorized entertainment expenses, be sure to include with the expense reimbursement form:

(i) Required receipts. All requests must be supported by original receipts from the vendor (restaurant, caterer, ticket office, etc.). Reasonable tips and gratuities included on the receipt by the vendor are reimbursable.

(ii) A disclosure and explanation statement, explaining the purpose of the entertainment and identifying the group and the number of people entertained (or individual names listed if not a recognized group).

(iii) Excessive charges will be reviewed on a case-by-case bases.

If the CAO is the person filing the claim, then it must be approved by the mayor before the finance officer authorizes payment. (1995 Code, § 4-505)

4-506. Travel reconciliation. (1) Within ten (10) days of return from travel, or by the end of the month whichever is less, the traveler must complete and file the expense reimbursement form. It must be certified by the traveler that the amount due is true and accurate. Original lodging, travel, taxi, parking and other receipts must be attached.

If the city provided a travel advance or made advanced payment, the traveler should include that information on the expense form. In the case of

advances, the form should have a reconciliation summary, reflecting total claimed expenses with advances and city pre-payments indicated. The balance due the traveler or the refund due the city should be clearly shown below the total claim on the form or in a cover memo attached to the front of the form.

(2) If the traveler received a travel advance and spent less than the advance, the traveler should attach a check made payable to the city for that difference.

(3) The CAO will address special circumstances and issues not covered in this chapter on a case-by-case basis. (1995 Code, § 4-506)

4-507. Disciplinary action. Violation of the travel rules can result in disciplinary action for employees. Travel fraud can result in criminal prosecution. (1995 Code, § 4-507)

CHAPTER 6**LIFE INSURANCE PROGRAM****SECTION**

4-601. Qualifications; premium supplement.

4-601. Qualifications; premium supplement. Retirees desiring life insurance will be managed, controlled and expended in the following manner:

(1) All retirees to obtain life insurance through the City of Fayetteville Life Insurance Program must be eligible for retirement under the TCRS and meet at least one of the following conditions:

(a) Fifty-five (55) years of age and at least twenty (20) years of service with the city and covered under the life insurance program for at least one full year immediately prior to retirement.

(b) Sixty (60) years of age and at least ten (10) years of service with the city and covered under the life insurance program for at least three full years immediately prior to retirement.

(c) At least thirty (30) years of service with the city and be covered under the life insurance program for at least one full year immediately prior to retirement.

Should the city's life insurance carrier discontinue coverage for retirees, the city will make every reasonable effort to find coverage, however, the city is under no obligation to provide coverage to the retiree. Should the city be unable to provide coverage through an "A" rated insurance company the city may terminate the program.

(2) Premium supplement covers all eligible employees retiring after July 1, 1995, subject to the following:

(a) The city will pay the premium (through the Retirees Health Insurance Supplement Fund) not to exceed the premium for regular employees from the time of retirement until age sixty-five (65) or time of death.

(b) The policy of the city's contribution to the retiree's insurance premium shall remain in effect until such time as the initial contribution and accumulated interest thereon is exhausted at which time it will terminate unless additional funding is provided by future boards of mayor and aldermen of the city. The retiree will receive six (6) months' notice of cancellation of the city's contribution. (1995 Code, § 4-601)

CHAPTER 7

OCCUPATIONAL SAFETY AND HEALTH PROGRAM

SECTION

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

4-701. Title. This section shall provide authority for establishing and administering the Occupational Safety and Health Program for the employees of the City of Fayetteville. (1995 Code, § 4-701)

4-702. Purpose. The City of Fayetteville Board of Mayor and Aldermen, in electing to establish and maintain an effective occupational safety and health program for its employees, shall:

- (1) Provide a safe and healthful place and condition of employment.
- (2) Make, keep, preserve, and make available to the Commissioner of Labor of the State of Tennessee, his designated representatives, or persons within the Tennessee Department of Labor to whom such responsibilities have been delegated, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.
- (3) Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards and provide for education and notification of all employees of the existence of this program. (1995 Code, § 4-702)

4-703. Coverage. The provisions of the Occupational Safety and Health Program for the employees of the City of Fayetteville shall apply to all employees of each administrative department, commission, board, division, or other agency of the City of Fayetteville whether part-time or full-time, seasonal or permanent. (1995 Code, § 4-703)

4-704. Standards authorized. The occupational safety and health standards adopted by the City of Fayetteville 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 (*Tennessee Code Annotated*, title 50, chapter 3). (1995 Code, § 4-704, modified)

4-705. Variances from standards authorized. The city administrator may, upon written application to the Commissioner of Labor of the State of Tennessee, request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with "Rules of Tennessee Department of Labor, Occupational Safety, chapter 0800-1-2, as authorized by *Tennessee Code Annotated*, title 50. Prior to requesting such temporary variance, the city administrator shall notify or serve notice to employees, their designated representatives, or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board as designated by the city administrator shall be deemed sufficient notice to employees. (1995 Code, § 4-705, modified)

4-706. Administration. For the purposes of this chapter, the city administrator is designated as the director of occupational safety and health to perform duties and to exercise powers assigned so as to plan, develop, and administer the City of Fayetteville program. The director shall develop a plan of operation¹ for the program and said plan shall become a part of this chapter when it satisfies all applicable sections of the Tennessee Occupational Safety and Health Act of 1972 and part IV of the Tennessee Occupational Safety and Health Plan. (1995 Code, § 4-706)

4-707. Funding the program. Sufficient funds for administering and staffing the program pursuant to this chapter shall be made available as authorized by the board of mayor and aldermen. (1995 Code, § 4-707)

¹The plan of operation is of record in the office of the administrator.

TITLE 5**MUNICIPAL FINANCE AND TAXATION¹****CHAPTER**

1. MISCELLANEOUS.
2. REAL PROPERTY TAXES.
3. PRIVILEGE TAXES.
4. WHOLESALE BEER TAX.
5. PUBLIC ADVERTISING AND COMPETITIVE BIDDING.
6. HOTEL/MOTEL PRIVILEGE TAX.

CHAPTER 1**MISCELLANEOUS****SECTION**

- 5-101. Official depositories for city funds named; withdrawals therefrom.
- 5-102. Absentee voting by mail procedures for non-resident property owners.

5-101. Official depositories for city funds named; withdrawals therefrom. All banks with physical branches in Lincoln County, Tennessee, Raymond James, and Tennessee Local Government Investment Pool are designated as official depositories for all city funds. All checks, drafts, or withdrawals made from the accounts in said depositories shall in addition to the name of the city bear the personal signature the mayor, clerk or assistant clerk and shall be countersigned by one (1) other individual being either the mayor, clerk or assistant clerk. (1995 Code, § 5-101, modified)

5-102. Absentee voting by mail procedures for non-resident property owners. All persons residing outside the corporate limits of the City of Fayetteville who own real property within the corporate limits of the City of Fayetteville and are entitled to vote in City of Fayetteville municipal elections pursuant to Fayetteville City Charter Article III, Section 4, and other general law requirements, shall cast their ballots in City of Fayetteville municipal elections by absentee mail ballots. (Ord. #2014-03, March 2014)

¹Municipal code reference

Alcoholic beverage privilege tax: title 8, chapter 3.

CHAPTER 2

REAL PROPERTY TAXES

SECTION

5-201. When due and payable.

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

5-201. When due and payable.¹ Taxes levied by the municipality against real and personal property shall become due and payable annually on the first Monday of October of the year for which levied. (1995 Code, § 5-201)

5-202. When delinquent--penalty and interest.² All real and personal 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 real and personal property taxes³ except that beginning with the real and personal property taxes becoming delinquent on March 1, 1981, and

¹State law references

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

²Charter 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 one-half (1/2) of one percent (1%) and interest of one percent (1%) shall be added on the first day of March, following the tax due date and on the first day of each succeeding month.

³Charter and state law references

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

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

subsequent years the penalty and interest shall accrue at the rate of one and one-half percent (1 1/2%) for the first month of such delinquency and one and one-half percent (1 1/2%) for each additional month that said taxes remain delinquent to a maximum of eighteen percent (18%). (1995 Code, § 5-202, modified)

CHAPTER 3

PRIVILEGE TAXES

SECTION

5-301. Tax levied.

5-302. License required.

5-303. Refunds.

5-301. Tax levied. Except as otherwise specifically provided in this code, there is hereby levied on all vocations, occupations, and businesses declared by the general laws of the state to be privileges taxable by municipalities, an annual privilege tax in the maximum amount allowed by state laws. The taxes provided for in the state's "Business Tax Act" (*Tennessee Code Annotated*, § 67-4-701, *et seq.*) are hereby expressly enacted, ordained, and levied on the businesses, business activities, vocations, and occupations carried on within the city at the rates and in the manner prescribed by the act. (1995 Code, § 5-301)

5-302. License required. No person shall exercise any such privilege within the municipality without a currently effective privilege license, which shall be issued by the city clerk to each applicant therefor upon the applicant's compliance with all regulatory provisions in this code and payment of the appropriate privilege tax. (1995 Code, § 5-302)

5-303. Refunds. The clerk is authorized and empowered to settle and adjust with taxpayers all errors of city business taxes erroneously or illegally collected by the city and to direct the refunding of same. Any claim for such refund of taxes erroneously or illegally paid shall be filed with the clerk supported by proper proof within one (1) year from the date of payment, otherwise the taxpayer shall not be entitled to a refund and said claim for refund shall be barred. (1995 Code, § 5-303)

CHAPTER 4

WHOLESALE BEER TAX

SECTION

5-401. To be collected.

5-401. To be collected. The city clerk is hereby directed to take appropriate action to assure payment to the municipality of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in *Tennessee Code Annotated*, title 57, chapter 6.¹ (1995 Code, § 5-401)

¹State law reference

Tennessee Code Annotated, § 57-6-103 provides for a tax 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

PUBLIC ADVERTISING AND COMPETITIVE BIDDING**SECTION**

5-501. Amount required increased to a maximum of \$10,000.00.

5-502. Purchasing amount increased requiring no public advertisement of competitive bidding.

5-501. Amount required increased to a maximum of \$10,000.00.

The amount required for public advertising and competitive bidding in *Tennessee Code Annotated*, § 6-56-306 for the City of Fayetteville be increased to a maximum of ten thousand dollars (\$10,000.00). (1995 Code, § 5-501)

5-502. Purchase amount increased requiring no public advertisement of competitive bidding. The one thousand dollars (\$1,000.00) purchase amount set out in the Municipal Purchasing Law of 1983 below which no public advertisement or competitive bidding is required is increased to four thousand dollars (\$4,000.00). Competitive bid and advertisements are required on all purchases on ten thousand dollars (\$10,000.00) or more. (1995 Code, § 5-502, modified)

CHAPTER 6

HOTEL/MOTEL PRIVILEGE TAX

SECTION

5-601. Definitions.

5-602. Permit required.

5-603. Register required; availability for inspection.

5-604. Rooms to be numbered.

5-605. Privilege tax levied; use.

5-606. Records required.

5-601. Definitions. As used in this chapter:

(1) "Consideration" means the consideration charged, whether or not received, for the occupancy in a hotel valued 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 portion thereof, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist camp, tourist cabin, motel or any place in which rooms, lodgings or accommodations are furnished to transients for a 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) "Persons" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, estate, trust, business trust, receiver, trustee, syndicate or any other group or combination acting as a unit; and

(6) "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) continuous days. (Ord. #2015-03, June 2015)

5-602. Permit required. (1) No person will conduct, keep, manage, operate or cause to be conducted, kept, managed or operated, either as owner, lessor, agent or attorney, any hotel in the city without having obtained a permit from the city administrator or his designee to do so.

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

(3) Not transferable. No permit issued under this chapter shall be transferred or assigned.

(4) Duration. Hotel permits shall be issued annually and shall expire on the last day of December of each year. (Ord. #2015-03, June 2015)

5-603. Register required; availability for inspection. Every person to whom a permit 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 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 administrator or his designee. (Ord. #2015-03, June 2015)

5-604. Rooms to be numbered. Each sleeping room and apartment 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. (Ord. #2015-03, June 2015)

5-605. Privilege tax levied; use. (1) Pursuant to the provisions of *Tennessee Code Annotated*, §§ 67-4-1401 to 67-4-1425, there is hereby levied a privilege of occupancy in any hotel of each transient. From and after the operative date of this chapter the rate of the levy shall be three and one-half percent (3.5%) of the consideration charged by the operator. This privilege tax shall be collected pursuant to and subject to the provisions of these statutory provisions. The city administrator shall be designed as the authorized collector to administer and enforce this chapter and these statutory provisions.

(2) The proceeds received from this tax shall be available for the city's general fund exclusively for tourism development. Proceeds of this tax may not be used to provide a subsidy in any form to any hotel or motel.

(3) Payment of the tax. Payment of the tax by the motel to the city shall be no later than the twentieth (20th) day of each month for the preceding month.

(4) Compensation to the hotel. The hotel may deduct two percent (2%) from the amount paid to the city.

(5) Interest and penalty for late payment. The hotel operator is responsible for paying interest on delinquent taxes, eight percent (8%) per annum, plus a penalty of one percent (1%) per month. (Ord. #2015-03, June 2015)

5-606. Records required. The hotel operator must keep records for three (3) years, with the right of inspection by the city. (Ord. #2015-03, June 2015)

TITLE 6**LAW ENFORCEMENT****CHAPTER****1. POLICE AND ARREST.****CHAPTER 1****POLICE AND ARREST¹****SECTION**

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

6-101. Police officers subject to chief's orders. All police officers shall obey and comply with such orders and administrative rules and regulations as the police chief may officially issue. (1995 Code, § 6-101)

6-102. Police officers 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 or notices issued by the mayor or board of mayor and aldermen. (1995 Code, § 6-102, modified)

6-103. Police officers to wear uniforms. All police officers shall wear such uniform and badge as the board of mayor and aldermen shall authorize. (1995 Code, § 6-103, modified)

6-104. When police officers to make arrests¹. 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.

¹Municipal code reference

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

(3) Whenever a felony has in fact been committed and the officer has reasonable cause to believe the person has committed it. (1995 Code, § 6-104)

6-105. Disposition of persons arrested. Unless otherwise authorized by law, when a person is arrested he shall be brought before the appropriate court for immediate trial or allowed to post bond. When the appropriate judge is not immediately available and the alleged offender is not able to post the required bond, he shall be confined. (1995 Code, § 6-106, modified)

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. (1995 Code, § 6-107)

TITLE 7

FIRE PROTECTION AND FIREWORKS¹

CHAPTER

1. FIRE DISTRICT.
2. FIRE CODE.
3. FIRE DEPARTMENT.
4. FIRE SERVICE OUTSIDE CITY LIMITS.
5. FIREWORKS.

CHAPTER 1

FIRE DISTRICT

SECTION

7-101. Fire limits described.

7-101. Fire limits described. The corporate fire limits shall include all that area within one (1) block east and west and two (2) blocks north and south of the town square (1995 Code, § 7-101)

¹Municipal code reference

Building, utility and residential codes: title 12.

CHAPTER 2

FIRE CODE¹

SECTION

- 7-201. Fire code adopted.
- 7-202. Enforcement.
- 7-203. Definition of "municipality."
- 7-204. Gasoline trucks.
- 7-205. Modifications.
- 7-206. Installation of rooftop and ground mounted solar photovoltaic array systems and their appurtenances.
- 7-207. Available in the planning and codes enforcement office.
- 7-208. Violations and penalty.

7-201. Fire code adopted. (1) Pursuant to authority granted by *Tennessee Code Annotated* , §§ 6-54-501 to 6-54-506, and for the purpose of providing a reasonable level of life safety and property protection from the hazards of fire, explosion or dangerous conditions in new and existing buildings, structures, and premises, and to provide safety to fire fighters and emergency responders during emergency operations, the *International Fire Code*, 2012 edition, including Appendix Chapters A, B, C, D, E, F, G, H, I and J, as published by the International Code Council,² be and is hereby adopted as the fire code of the City of Fayetteville, in the State of Tennessee regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said fire code on file in the office of the City of Fayetteville are hereby referred to, adopted, and made a part hereof, as if fully set out in this section, with the additions, insertions, deletions and changes, if any, prescribed in subsection (2) of this section.

- (2) That the following sections are hereby revised:
 - Section 101.1 City of Fayetteville.
 - Section 109.3. Violation of Fire Code, \$50.00 each violation per day.

¹Municipal code reference

Building, utility and residential codes: title 12.
Life safety code: title 12, chapter 10.

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

Section 111.4. not less than \$50.00 or more than \$50.00 per day of violation.

(3) That the geographic limits referred to in certain sections of the 2012 *International Fire Code* are hereby established as follows:

Section 5504.3.1.1 (geographic limits in which the storage of flammable cryogenic fluids in stationary containers is prohibited):

As approved by the Fire Chief

Section 5704.2.9.6.1 (geographic limits in which the storage of Class I and Class II liquids in above-ground tanks outside of buildings is prohibited): As approved by the Fire Chief

Section 5706.2.4.4 (geographic limits in which the storage of Class I and Class II liquids in above-ground tanks is prohibited): As approved by the Fire Chief

Section 6104.2 (geographic limits in which the storage of liquefied petroleum gas is restricted for the protection of heavily populated or congested areas): As approved by the Fire Chief. (Ord. #2014-25, Nov. 2014, modified)

7-202. Enforcement. The fire prevention code herein adopted by reference shall be enforced by the chief of the fire department. (1995 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 Fayetteville. (1995 Code, § 7-203)

7-204. Gasoline trucks. No person shall operate or park any gasoline tank truck within the central business district or within any residential area at any time except for the purpose of and while actually engaged in the expeditious delivery of gasoline. (1995 Code, § 7-204)

7-205. Modifications. The chief of the fire department may recommend to the board of mayor and aldermen modifications 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 modifications when granted or allowed shall be contained in a resolution of the board of mayor and aldermen. (1995 Code, § 7-205)

7-206. Installation of rooftop and ground mounted solar photovoltaic array systems and their appurtenances. (1) Installation of photovoltaic array systems shall be installed in accordance with the provisions contained herein. In the event there is a conflict between the provision contained

herein, or any other code or regulation adopted by the City of Fayetteville, the more stringent requirement shall apply.

(2) Marking. PV systems shall be marked. Marking is needed to provide emergency responders with appropriate warning and guidance with respect to working around and isolating the solar electric system. This can facilitate identifying energized electrical lines that connect to solar modules to the inverter, as these should not be cut when venting for smoke removal.

Material used for marking must be weather resistant. It is recommended that Underwriters Laboratories Marking and Labeling System 969 (UL969) be used as standard to determine weather rating. (UL listing of markings is not required.)

(3) Main service disconnect. For residential applications, the marking may be placed within the main service disconnect. If the main service disconnect is operable with the service panel closed, the marking shall be placed on the outside of the cover.

For commercial applications, the marking shall be placed adjacent to the main service disconnect in a location clearly visible from the location where the lever is operated.

(a) Marking content and format:

(i) Marking content: CAUTION, SOLAR ELECTRIC SYSTEM CONNECTED;

(ii) Red background;

(iii) White lettering;

(iv) Minimum three-eighths inches (3/8") letter height;

(v) All capital letters;

(vi) Arial or similar font;

(vii) Reflective, weather resistant material suitable for exposure to the environment (Example: CAUTION, SOLAR ELECTRIC SYSTEM CONNECTED).

(4) Marking for direct current conduit, raceways, enclosures, cable assemblies, and junction boxes. Marking is required on all interior and exterior DC conduit, raceways, enclosures, cable assemblies, and junction boxes to alert the fire service to avoid cutting them. Marking should be placed on all interior and exterior DC conduit, raceways, enclosures, and cable assemblies, every ten feet (10'), at turns and above and below penetrations and all DC combiner and junction boxes.

(a) Marking content and format:

(i) Marking content: CAUTION SOLAR CIRCUIT;

(ii) Red background;

(iii) White lettering;

(iv) Minimum three-eighths inches (3/8") letter height;

(v) All capital letters;

(vi) Arial or similar font;

(vii) Reflective, weather resistant material suitable for exposure to the environment (Example: CAUTION SOLAR CIRCUIT).

(5) Inverters. The inverter is a device used to convert DC electricity from the solar system to AC electricity for use in the building's electrical system or the grid. No markings are required for the inverter.

(6) Access, pathways, and smoke ventilation. (a) Access and spacing requirements shall be observed in order to:

- (i) Ensure access to the roof;
- (ii) Provide pathways to specific areas of the roof;
- (iii) Provide for smoke ventilation opportunity areas;
- (iv) Provide emergency egress from the roof.

(b) The local jurisdiction may create exceptions to this requirement where access, pathway or ventilation requirements are reduced due to:

- (i) Proximity to adjacent exposures;
- (ii) Alternative access opportunities (as from adjoining roofs);
- (iii) Ground level access to the roof area in question;
- (iv) Adequate ventilation opportunities beneath solar array (as with significantly elevated or widely spaced arrays);
- (v) Adequate ventilation opportunities afforded by module set back from other rooftop equipment (i.e. shading or structural constraints may leave significant areas open for ventilation near other rooftop equipment);
- (vi) Automatic ventilation devices;
- (vii) New technology, methods, or other innovations that ensure adequate fire department access, pathways and ventilation opportunities.

Designation of ridge, hip, and valley does not apply to roofs with 2-in-12 or less roof pitch. All roof dimensions are measured to centerlines.

Roof access points shall be defined as areas where ladders are not placed over openings (i.e. windows and doors) and are located at strong points of building construction and in locations where they will not conflict with overhead obstructions (i.e. tree limbs, wires, or signs).

(7) Residential systems--single- and two-family residential dwellings. Plan review is required if a system is to be installed that will occupy more than fifty percent (50%) of the roof area of a residential building. Examples of this requirement appear t the end of this document.¹

- (a) Access/pathways. (i) Residential buildings with hip roof layouts. Modules shall be located in a manner that provides one (1)

¹Examples are available in the office of the city administrator.

three foot (3') wide clear access pathway from the eave to the ridge on each roof slope where modules are located. The access pathway shall be located at a structurally strong location on the building (i.e. bearing wall);

(ii) Residential buildings with a single ridge. Modules shall be located in a manner that provides two (2) three foot (3') wide access pathways from the eave to the ridge on each roof slope where modules are located;

(iii) Hips and valleys. Modules should be located no closer than one and one-half feet (1 1/2') to a hip or a valley if modules are to be placed on both sides of a hip or valley. If the modules are to be located on only one (1) side of a hip or valley that is of equal length then the modules may be placed directly adjacent to the hip or valley.

(b) Smoke venting. The modules should be located no higher than three feet (3') below the ridge.

(8) Commercial buildings and residential housing comprised of three (3) or more dwellings. Exception, if the fire official determines that the roof configuration is similar to residential (i.e. townhouses, condominiums, or single-family attached buildings) the fire code official may make a determination to apply the residential access and ventilation requirements.

(a) Access. There shall be a minimum six foot (6') wide clear perimeter around the edges of the roof.

Exception, if either axis of the building is two hundred fifty feet (250') or less in length, there shall be a minimum four feet (4') wide clear perimeter around the edges of the roof.

(b) Pathways. Pathways shall be established for the design of the solar installation. Pathways shall meet the following requirements:

(i) Shall be over structural elements;

(ii) Centerline axis pathways should be provided in both axis of the roof. Centerline axis pathways should run on structural members or over the next closest structural member nearest the centerline of the roof.

(iii) Shall be straight lines not less than four feet (4') clear to roof standpipes;

(iv) Shall be straight line not less than four feet (4') clear to skylights and/or ventilation hatches;

(v) Shall provide not less than four feet (4') clear around roof access hatch with at least one (1) not less than four feet (4') clear pathway to parapet or roof edge.

(c) Smoke ventilation. (i) Arrays shall be no greater than one hundred fifty by one hundred fifty feet (150' x 150') in distance in either axis;

(ii) Ventilation options between array sections should be either:

- (A) A pathway eight feet (8') or greater in width;
- (B) Four feet (4') or greater in width pathway and bordering on existing roof skylights or ventilation hatches;
- (C) Four feet (4') or greater in width pathway and bordering four feet by eight feet (4' x 8') "venting cutouts" every twenty feet (20') on alternating sides of the pathway.

(9) Location of Direct Current (DC) conductors. Conduit wiring systems, and raceways for photovoltaic circuits should be located as close as possible to the ridge, hip or valley and from the hip or valley as directly as possible to an outside wall to reduce trip hazards and maximize ventilation opportunities.

Conduit runs between sub arrays and to DC combiner boxes should use design guidelines that minimize the total amount of conduit on the roof by taking the shortest path from the array to the DC combiner box. The DC combiner boxes are to be located such that conduit runs are minimized in the pathways between arrays.

To limit the hazard of cutting live conduit in venting operations, DC wiring shall be run in metal conduit or raceways when located within enclosed spaces in a building and should be run to the maximum extent possible along the bottom of load-bearing members.

(10) Non-habitable buildings. These regulations shall not apply to non-habitable structures. Examples of non-habitable structures include, but are not limited to, parking shade structures, solar trellises, etc.

(11) Ground mounted photovoltaic arrays. Setback requirements do not apply to ground-mounted, freestanding photovoltaic arrays. A clear brush area of ten feet (10') is required for ground mounted photovoltaic arrays.

(12) The attached pictorial examples (1-8) shall be attached hereto and incorporated herein.¹ (1995 Code, § 7-207)

7-207. Available in planning and codes enforcement office.

Pursuant to the requirements of the *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the fire code has been placed on file in the planning and codes enforcement office and shall be kept there for the use and inspection of the public.

7-208. Violations and penalty. It shall be unlawful for any person to violate any of the provisions of this chapter or the fire code herein adopted, or fail to comply therewith, or violate or fail to comply with any order made thereunder; or build in violation of any detailed statement of specifications or

¹Examples are available in the office of the city administrator.

plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken; or fail to comply with such an order as affirmed or modified by the board of mayor and aldermen or by a court of competent jurisdiction, within the time fixed herein. The application of a penalty under the general penalty clause for the city code shall not be held to prevent the enforced removal of prohibited conditions. (1995 Code, § 7-206)

CHAPTER 3

FIRE DEPARTMENT¹

SECTION

7-301. Establishment, equipment, and membership.

7-302. Objectives.

7-303. Organization, rules, and regulations.

7-304. Records and reports.

7-305. Chief responsible for training and maintenance.

7-306. Chief to be assistant to state officer.

7-301. Establishment, equipment, and membership. There is hereby established a fire department to be supported and equipped from appropriations by the board of mayor and aldermen. All apparatus, equipment, and supplies shall be purchased by or through the municipality and shall be and remain the property of the municipality. The fire department shall be composed of a chief appointed by the city administrator and such number of physically-fit subordinate officers, fire marshal and firemen as the chief shall appoint and the fire committee shall approve. (1995 Code, § 7-301, modified)

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 in case a fire does start.

(3) To confine fires to the place 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. (1995 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. (1995 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, and work of the department. He shall submit a written report on such matters

¹Municipal code reference

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

to the board of mayor and aldermen once each month, and at the end of the year a detailed annual report shall be made. (1995 Code, § 7-304, modified)

7-305. Chief responsible for training and maintenance. The chief of the fire department, shall be fully responsible for the training of the firemen and the minimum training shall consist of having the personnel take the fire apparatus out for practice operations not less than once a month. (1995 Code, § 7-306)

7-306. 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. (1995 Code, § 7-307)

CHAPTER 4**FIRE SERVICE OUTSIDE CITY LIMITS****SECTION**

7-401. Use of equipment outside city restricted.

7-401. Use of equipment outside city restricted. The fire department shall answer calls within the corporate limits. The chief may, at his discretion, order fire department personnel and equipment to answer calls outside the limits described above in compliance with any mutual aid policy established between the city and other governmental entities. However, in such event an experienced driver must remain at the fire hall and no more than one (1) pumper and one (1) snorkel and twenty-five percent (25%) of the personnel may answer any such call. (1995 Code, § 7-401, modified)

CHAPTER 5**FIREWORKS****SECTION**

7-501. Fireworks unlawful.

7-502. Unlawful uses of fireworks.

7-501. Fireworks unlawful. It shall be unlawful for fire crackers, torpedoes, Roman candles, sparklers or other fireworks or substances designated and intended for pyrotechnic display to be sold within the fire limits of the city except in a building of masonry construction.

It shall also be unlawful to fire, discharge, or explode such fireworks within the corporate fire limits. (1995 Code, § 7-501)

7-502. Unlawful uses of fireworks. It is unlawful to discharge or use fireworks from city property, streets or sidewalks without prior written consent of the board of mayor and aldermen. It is unlawful to ignite or discharge fireworks within or throw them from a motor vehicle, and it is unlawful to place or throw ignited fireworks into or at a motor vehicle, or at or near any person or group of persons. It is unlawful to launch fireworks onto property of persons who have not given permission to do so. It is unlawful to use fireworks in any manner that endangers other persons or property. (1995 Code, § 7-502)

TITLE 8

ALCOHOLIC BEVERAGES¹

CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.
3. ALCOHOLIC BEVERAGE PRIVILEGE TAX.

CHAPTER 1

INTOXICATING LIQUORS

SECTION

- 8-101. Alcoholic beverages subject to regulation.
- 8-102. Application for certificate of good moral character.
- 8-103. Applicant to agree to comply with law.
- 8-104. Applicant may be required to appear before board of mayor and alderman; duty to give information.
- 8-105. Action on application.
- 8-106. Only one establishment to be operated by retailer.
- 8-107. Where establishments may be located.
- 8-108. Retail stores to be on ground floor; entrances.
- 8-109. Limitation on number of retailers.
- 8-110. Sales for consumption on premises.
- 8-111. Amusement devices and seating facilities prohibited in retail establishments.
- 8-112. Inspection fee.
- 8-113. Visible consumption or possession in certain areas regulated.
- 8-114. Beer regulations unaffected.
- 8-115. Violations and penalty.

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. (1995 Code, § 8-101)

8-102. Application for certificate of good moral character. Before any character certificate, as required by *Tennessee Code Annotated*, § 57-3-208

¹State law reference

Tennessee Code Annotated, title 57.

or a renewal as required by § 57-3-213 shall be signed by the mayor, or by any aldermen, an application in writing shall be filed with the city clerk on a form to be provided by the city, giving the following information:

- (1) Name, age and address of the applicant.
- (2) Number of years residence in the city.
- (3) Occupation or business and length of time engaged in such occupation or business.
- (4) Whether or not the applicant has been convicted of a violation of any state or federal law or of the violation of this code or any city ordinance, and the details of any such conviction.
- (5) If employed, the name and address of employer.
- (6) If in business, the kind of business and location thereof.
- (7) The location of the proposed store for the sale of spirits.
- (8) The name and address of the owner of the store.
- (9) If the applicant is a partnership, the name, age and address of each partner, and his occupation, business or employer. If the applicant is a corporation, the name, age and address of the stockholders and their degrees of ownership of stock in the corporation.

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 shall be accompanied by a non-refundable investigation fee of two hundred fifty dollars (\$250.00). (1995 Code, § 8-102, modified)

8-103. Applicant to agree to comply with law. The applicant for a certificate was of good moral character shall agree in writing to comply with the state and federal laws and ordinances of the city and rules and regulations of the Alcoholic Beverage Commission of the state for the sale of alcoholic beverages. (1995 Code, § 8-103)

8-104. Applicant may be required to appear before board of mayor and aldermen; duty to give information. An applicant for a certificate of good moral character may be required to appear in person before the board of mayor and aldermen for such reasonable examination as may be desired by the board. (1995 Code, § 8-104, modified)

8-105. Action on application. Every application for a certificate of good moral character shall be referred to the chief of police for investigation and to the city attorney for review, each of whom shall submit his findings to the board of mayor and aldermen within thirty (30) days of the date each application was filed.

The mayor or a majority of the board of mayor and aldermen may issue a certificate of moral character to any applicant.

The certificate shall expire unless the State of Tennessee has issued a valid liquor license to the applicant within sixty (60) days of the date of the certificate. (1995 Code, § 8-105)

8-106. 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. (1995 Code, § 8-108)

8-107. Where establishments may be located. 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, but in no event shall any establishment be located within five hundred feet (500') of a hospital, church or school, or any other place of public gathering, measured in a straight line; between the buildings. (1995 Code, § 8-109)

8-108. 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 shall have only one (1) main entrance; provided, that when a store is located on the corner of two (2) streets, such store may maintain a door opening on each such street; and provided further, that any salesroom adjoining the lobby of a hotel may maintain an additional door into such lobby as long as the lobby is open to the public. (1995 Code, § 8-110)

8-109. Limitation on number of retailers. No more than four (4) retail licenses for the sale of alcoholic beverages shall be issued under this chapter. (1995 Code, § 8-111)

8-110. Sales for consumption on premises. No alcoholic beverages shall be sold for consumption on the premises of the seller. (1995 Code, § 8-112)

8-111. Amusement devices and seating facilities prohibited in retail establishments. No 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. (1995 Code, § 8-113, modified)

8-112. Inspection fee. The City of Fayetteville 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. (1995 Code, § 8-114)

8-113. Visible consumption or possession in certain areas regulated. Visible consumption or possession of alcoholic beverages in unsealed containers upon or in any vehicle upon, any public street, alley, sidewalk, or parking lot, within any governmental building, or upon any commercial or business parking lot or visible consumption or possession of alcoholic beverages in unsealed containers upon or in any vehicle upon, any private property without the permission of the owner or the person in legal control of the premises shall be a violation of this chapter. (1995 Code, § 8-116)

8-114. Beer regulations unaffected. No provision of this chapter shall be considered or construed as in any way modifying, changing, or restricting the rules and regulations governing the sale, storage, transportation, etc., or tax upon beer, as defined in *Tennessee Code Annotated*, § 57-5-101. (1995 Code, § 2-117, modified)

8-115. Violations and penalty. Any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty clause of this code. Upon conviction of any person under this chapter, it shall be mandatory for the city clerk to immediately certify the conviction, whether on appeal or not, to the Tennessee Alcoholic Beverage Commission. (1995 Code, § 8-115)

CHAPTER 2

BEER¹

SECTION

- 8-201. Sale, transportation, distribution, etc., regulated.
- 8-202. Beverage board created; membership; terms.
- 8-203. Meetings of the beverage board.
- 8-204. Record of beverage board proceedings to be kept.
- 8-205. Requirements for beverage board quorum and action.
- 8-206. Powers and duties of the beverage board.
- 8-207. Permit required to sell, store, distribute, manufacture beer.
- 8-208. Classes of permits.
- 8-209. Limitations upon issuance of beer permits.
- 8-210. Contents of application for permit; qualifications of applicant and employees; application fee.
- 8-211. Suspension, revocation, expiration, or renewal of permits.
- 8-212. Permits for hotels, clubs, lodges.
- 8-213. All fees and taxes required to be paid.
- 8-214. Permit to be displayed.
- 8-215. Permits not transferable.
- 8-216. Prohibited activities by beer permit holders.
- 8-217. Wholesalers, distributors, manufacturers; restrictions as to places of business.
- 8-218. Wholesalers, distributors, manufacturers; sales authorized to permittees only.
- 8-219. Minors; certain acts prohibited.
- 8-220. Hours for furnishing and/or consuming on licensed premises.
- 8-221. Sanitation requirements and standards for licensed premises; inspections; placement of signs.
- 8-222. Minors prohibited from being on premises.
- 8-223. Privilege tax.
- 8-224. Violations and penalty.

8-201. Sale, transportation, distribution, etc., regulated. It shall be lawful within the City of Fayetteville to transport, store, sell, distribute, possess, receive, and/or manufacture beer of alcoholic content as defined in *Tennessee Code Annotated*, § 57-5-101, subject, however, to the rules and

¹State law reference

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

regulations and restrictions and conditions which may be attached to any permit issued hereunder by the beverage board of the City of Fayetteville, Tennessee. (1995 Code, § 8-201, modified)

8-202. Beverage board created; membership; terms. There is hereby created a board of three (3) members, to be known as the beverage board of the City of Fayetteville, Tennessee. The three (3) members shall be the mayor and two (2) aldermen recommended by the mayor with the approval of the majority of the board of aldermen. Their terms of office shall be for two (2) years. (1995 Code, § 8-202, modified)

8-203. Meetings of the beverage board. All meetings of the beverage board shall be open to the public. The board shall hold regular monthly meetings at the municipal building whenever there is business to come before the beverage board. The mayor shall serve as chair of the beverage board. A special meeting of the beverage board may be called by its chairman provided he gives a reasonable notice thereof to each board member, and the board may adjourn a meeting at any time to another time and place. (1995 Code, § 8-203, modified)

8-204. Record of beverage board proceedings to be kept. The city clerk shall make a separate record of the proceedings of all meetings of the beverage board. The record shall be a public record and shall contain at least the following: the date of each meeting; the names of the board members present and absent; the names of the members introducing and seconding motions and resolutions, etc., before the board; a copy of each such motion or resolution presented; the vote of each member thereon; and the provisions of each beverage permit issued by the board. (1995 Code, § 8-204)

8-205. Requirements for beverage board quorum and action. The attendance of at least a majority of the members of the beverage board shall be required to constitute a quorum for the purpose of transacting business. Matters before the board shall be decided by a majority of the members present if a quorum is constituted. Any member present but not voting shall be deemed to have cast a "nay" vote. (1995 Code, § 8-205)

8-206. Powers and duties of the beverage board. The beverage board shall have the power and it is hereby directed to regulate the selling, storing for sale, distributing for sale and manufacturing of beer within this municipality in accordance with the provisions of this chapter. (1995 Code, § 8-206)

8-207. Permit required to sell, store, distribute, manufacture beer. No person shall engage in the storing, selling, distributing or

manufacturing of beer of alcoholic content of not more than such weight, volume, or alcoholic content as is allowable by the statutory laws of the State of Tennessee, or other beverage of like alcoholic content within the city, until he shall receive a permit to do so from the beverage board, which permit shall at all times be subject to all of the limitations and restrictions herein provided and such special restrictions or conditions as may be applied to a specific permit. (1995 Code, § 8-207)

8-208. Classes of permits. There shall be four (4) classes or kinds of permits issued by the beverage board as follows:

(1) **Manufacturers.** A "manufacturer's" permit to a manufacturer of beer, or any other beverage of an alcoholic content as defined in *Tennessee Code Annotated*, § 57-5-101, for the manufacture, possession, storage, sale, distribution, and transportation of the product of such manufacturer, not to be consumed by the purchaser upon or near the premises of such manufacturer.

(2) **Off-sale.** An "off-sale" permit to any person or legal organization engaged in the sale of such beverages where they are not to be consumed by the purchaser upon or near the premises of such seller.

(3) **On-sale.** An "on-sale" permit to any person or legal organization engaged in the sale of such beverages where they are to be consumed by the purchaser or his guests upon the premises of the seller, and provided such beverages may also be sold in hotel rooms or regularly conducted hotels and in regularly incorporated clubs and lodges upon their obtaining the required permit.

(4) (a) **Caterer's permit.** A caterer's permit shall be issued to any person who has obtained a caterer license from the state alcoholic beverage commission for sale and consumption of wine and other alcoholic beverages pursuant to *Tennessee Code Annotated*, title 57, chapter 4 (*Tennessee Code Annotated*, § 57-4-101 *et seq.*), and who is engaged in the sale of beer where the beer is to be consumed by the purchaser or his guests upon the premises of the catered event site.

"Caterer" means a person or legal entity engaged in the business of offering food and beverage services for a fee at various locations, who:

(i) Has a complete and adequate commercial kitchen facility; and

(ii) Is licensed as a caterer by the Tennessee Department of Health.

In addition to the other requirements of this chapter:

(b) No caterer's permit shall be issued to a person who does not hold a valid caterer license from the state alcoholic beverage commission for sale and consumption of wine and other alcoholic beverages pursuant to *Tennessee Code Annotated*, title 57, chapter 4 (*Tennessee Code Annotated*, § 57-4-101 *et seq.*). Should the holder of a caterer's permit cease to hold a valid caterer license from the state alcoholic beverage

commission, such as caterer's permit shall be automatically deemed revoked by the board.

(c) The caterer shall be hired for a fee in order to qualify for a caterer's permit and the catered event shall not be initiated by the caterer.

(d) No caterer's permit shall be valid for the sale and consumption of beer on any premises for which a retailer's "on-sale" permit has been revoked within the past twelve (12) month period, nor shall a caterer's permit be used for the sale and consumption of beer on any premises owned or leased by a person, firm, corporation, joint-stock company, syndicate or association having at least a five percent (5%) ownership interest in the establishment that has had a retailer's "on sale" permit revoked within the past twelve (12) month period.

(e) A caterer's permit is valid for each catering site. (1995 Code, § 8-208, modified)

8-209. Limitations upon issuance of beer permits. No permit shall be issued by the beverage board:

(1) In violation of any provisions of state law.

(2) In violation of the zoning ordinance of the City of Fayetteville.

(3) At any location where the sale of beer or other beverages will cause congestion of traffic, interference with schools, churches, or other places of public gatherings, or otherwise interfere with public health, safety and morals.

(4) At any location for "on premises consumption" which is not enclosed except that temporary beer licenses or permits not to exceed ten (10) days duration during any twelve (12) month period may be issued for locations that do not meet this criteria.

(5) Definition of enclosed. For the purposes of this section, enclosed shall include any outdoor area that is separated by an ornamental railing or fence constructed of materials similar to those of the exterior of the main structure, with chain link fences specifically excluded and separated from vehicular traffic, including parking areas and protected from traffic hazards. Enclosed area shall not intrude upon any public walkway or right-of-way. (1995 Code, § 8-209)

8-210. Contents of application for permit; qualifications of applicant and employees; application fee. (1) Before any permit is issued by the beverage board, the applicant therefor shall file with the beverage board a sworn petition in writing on forms prescribed by and furnished by the board and shall establish the following:

(a) The owner or owners of such premises.

(b) That the applicant will not engage in the sale of such beverages except at the place or places for which the beverage board has issued a permit or permits to such applicant.

(c) That no sale of such beverages will be made except in accordance with the permit granted.

(d) That if the application is for a permit to sell "not for consumption on the premises," no sale will be made for consumption on the premises and that no consumption will be allowed on the premises.

(e) That no sale will be made to minors, and that the applicant will not permit minors or disorderly or disreputable persons hereto connected with the violation of liquor laws to loiter around the place of business.

(f) The beverage board may require the applicant to secure a certificate or a statement from the health officer that the premises which the application covers meets the requirements of § 8-222 of this chapter.

(g) That the applicant will not allow any beer with an alcoholic content greater than such weight, volume, or alcoholic content as allowed by the laws of the State of Tennessee, to be consumed on his premises.

(h) That neither the applicant nor any persons employed or to be employed by him in such distribution or sale of such beverage has ever been convicted of any violation of the law against prohibition, sale, manufacture or transportation of intoxicating liquor, or of any crime involving moral turpitude within the past ten (10) years.

(i) 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 companies for whom and only for whom, the applicant intends to act.

(j) That no beer shall be sold from coin-operated dispensers.

(2) No manufacturer, wholesaler, or retailer, or any employee thereof, engaged in the physical manufacture, storage, sale, or distribution of alcoholic beverages shall be a person under the age of eighteen (18) years and it shall be unlawful for any wholesaler or retailer to employ any person under eighteen (18) years of age for the physical storage, sale, or distribution of alcoholic beverages, or to permit any such person under said age in its place of business to engage in the manufacture, storage, sale or distribution of alcoholic beverages.

(3) Each applicant at the time of filing an application for a permit as provided hereunder shall pay a non-refundable application fee of two hundred fifty dollars (\$250.00) to partially defray the cost of investigation of such application and no such application shall be considered until said fee has been paid to the city clerk. The beverage board shall have thirty (30) days after the filing of an application with the city clerk in which to investigate the applicant and his premises and act on the application.

(4) Temporary beer licenses or permits not to exceed thirty (30) days duration may be issued upon the same conditions governing permanent permits. Provided however, such a temporary license or permit shall not allow the sale, storage or manufacture of such beer on public owned property. (1995 Code, § 8-210)

8-211. Suspension, revocation, expiration, or renewal of permits.

(1) All permits subject to suspension, revocation. All permits issued by the beverage board under the provisions of this chapter shall be subject to suspension or revocation by said board for the violation of any of the provisions of the state beer act or any of the provisions of this chapter.

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

(2) Authority of board. The board created by this chapter is vested with full and complete power to investigate charges against any permit holder and to cite any permit holder to appear and show cause why his permit should not be revoked for the violation of the provisions of this chapter or the provisions of the state beer act.

(3) Complaints. Complaints filed against any permit holder for the purpose of suspending or revoking such permits shall be made in writing and filed with the board.

(4) Notice to appear; contents; service. When the board shall have reason to believe that any permit holder shall have violated any of the provisions of this chapter or any of the provisions of the state beer act, the board is authorized, in its discretion, to notify the permittee of said violations and to cite said permittee by written notice to appear and show cause why his permit should not be suspended or revoked for such violations. Said notice to appear and show cause shall state the alleged violations charged and shall be served upon the permittee either by registered letter or by a member of the police department of the city. The notice shall be served upon the permittee at least five (5) days before the date of the hearing.

(5) Effect of board action. The action of the board in all such hearings shall be final, subject only to review by the court as provided in the state beer act. When a permit is revoked, no new permit shall be issued hereunder for the sale of beer at the same location, until the expiration of one (1) year from the date said revocation becomes final. (1995 Code, § 8-211)

8-212. Permits for hotels, clubs, lodges. It shall be lawful for the beverage board to issue a permit for the sale of any beverage coming within the provisions of this chapter to hotels, clubs, or lodges, subject to the limitations and restrictions contained in the state law and the rules and regulations promulgated thereunder, and subject to all the limitations and restrictions

contained in the permit required by this chapter and any ordinance amendatory hereof. (1995 Code, § 8-212)

8-213. All fees and taxes required to be paid. Each applicant granted a permit to sell any beverage coming within the provisions of this chapter shall, before engaging in such sale, pay all proper city taxes and business fees. (1995 Code, § 8-213)

8-214. Permit to be displayed. The permit required by this chapter shall be posted in a conspicuous place on the premises of the permit holder. (1995 Code, § 8-214)

8-215. Permits not transferable. Permits issued under the provisions of this chapter are not transferable, either as to location or as to successor by purchase or otherwise, of the business for which the permit was issued, and in either case a new permit is required in the manner provided herein. (1995 Code, § 8-215)

8-216. Prohibited conduct or activities by beer permit holders. It shall be unlawful and it is hereby declared to be a misdemeanor for any person engaged in the business regulated hereunder,

(1) To make, or to permit to be made, any sales or distribution of such beverages to minors or to persons intoxicated;

(2) To allow any person under twenty-one (21) years of age to have in his or her possession beer for any purpose except in the course of his or her employment or make or allow any sale of beer to any person under twenty-one (21) years of age.

The burden of ascertaining the age of customers shall be upon the owner or operator of such place of business;

(3) To fail to provide proper sanitary facilities where such beverage is permitted to be consumed on-premises;

(4) To sell or distribute beverages at any place where pool or billiards are played, unless the sale or distribution of such beverage is made in the front of such room or place where a partition wall separates the place from the pool or billiard parlor;

(5) To permit minors or disorderly or intoxicated persons to loiter on the premises;

(6) To permit any person to be employed on the premises in violation of any provision of this chapter; or

(7) Permit any employee of the license holder to dispense, serve, sell or give away alcoholic beverages which term means and includes alcohol, spirits, liquor and wine with an alcoholic content as defined in *Tennessee Code Annotated*, § 57-5-101, but this prohibition shall not apply to any license holder also licensed under *Tennessee Code Annotated*, §§ 57-4-101 to 57-4-308.

(8) Permit the consumption on the premises of any permit holder of alcoholic beverages which term means and includes alcohol, spirits, liquors and wine with an alcoholic content as defined in *Tennessee Code Annotated*, § 57-5-101, but this prohibition shall not apply to any permit holder also licensed under *Tennessee Code Annotated*, §§ 57-4-101 to 57-4-308.

(9) To allow any loud, unusual or obnoxious noises to emanate from the premises.

(10) To allow the place of business to become a public nuisance to law enforcing agencies of the City of Fayetteville, or create a nuisance or materially contribute to creating or maintaining a public nuisance.

(11) The owner and operator shall be held strictly accountable for any actions of his or her employees which violate any of the above provisions. (1995 Code, § 8-216, modified)

8-217. Wholesalers, distributors, manufacturers; restrictions as to places of business. No wholesaler of alcoholic beverages regulated herein shall maintain more than one (1) place of business. However, the beverage board in its discretion may issue a special permit to any distributor to allow said distributor to store beer in a warehouse or building apart from the building from which the business is conducted. In addition, such distributors are authorized to store draft beer, for refrigeration purposes only, in one (1) additional refrigeration plant under the following conditions:

(1) For the purpose of this chapter, any employee of such refrigeration plant who may be in any manner connected with the sale or distribution of beer stored therein shall be deemed to be an employee of the wholesaler or distributor when beer is so stored, and any violation of this chapter or any provision of the beer law by such employee shall be deemed to be a violation by said wholesaler or distributor.

(2) Except sales from trucks from duly authorized salesmen, or as otherwise provided herein, no beer shall be transferred from, sold in, stored in, brought to rest in, sold from, possessed in, receipted for at, manufactured, wholesaled, or distributed from any other place, building or location, except from said building, place, or location set out and called for in the wholesaler's, distributor's, or manufacturer's beer permit, and/or said refrigeration plant and no beer shall be transferred to a retailer or any other purchaser except from the location called for in said wholesaler's, distributor's, or manufacturer's beer permit, and/or said refrigeration plant, by any wholesaler, distributor, or manufacturer, their salesmen or authorized representatives. (1995 Code, § 8-217, modified)

8-218. Wholesalers, distributors, manufacturers; sales authorized to permittees only. It shall be unlawful for any wholesaler, distributor, or manufacturer of beer, or any of their salesmen or representatives, to sell or deliver beer enroute, or from delivery vehicles, to any persons other than the

holders of valid retail beer permits and it shall be the duty of such wholesaler, distributor, or manufacturer, their salesmen or representatives, to ascertain whether or not each purchaser is a holder of a valid retail beer permit. (1995 Code, § 8-218)

8-219. Minors; certain acts prohibited. (1) Purchase, possession. It shall be unlawful for any minor to purchase or attempt to purchase any beverage hereunder and the possession of such beverage by any minor upon the premises of an on-premises permittee shall be prima facie evidence of such unlawful purchase.

It shall be unlawful for any person under the age of twenty-one (21) years to have in his or her possession beer for any purpose, and it shall be unlawful for any such minor to transport beer for any purpose except the same be in the course of his employment.

(2) Falsifying age. It shall be unlawful for any minor to present or offer to any permittee, his agent or employee, any written evidence of his age which is false, fraudulent, or not actually his own, for the purpose of purchasing or attempting to purchase or otherwise procuring or attempting to procure such beverage.

(3) Court having jurisdiction. Any minor who acts in violation of any one or more of the provisions of this section shall be deemed guilty of a misdemeanor and shall be taken before the county juvenile judge for appropriate disposition.

(4) Definition of minor. For purposes of this chapter, a minor is any person under the age of twenty-one (21) years. (1995 Code, § 8-220)

8-220. Hours for furnishing and/or consuming on licensed premises. It shall be unlawful for holders of permits for the sale of beer for consumption on the premises or for the sale of packaged beer not for consumption on the premises to sell, lend, or give away or allow any sale, lending or giving away of beer between the hours of 3:00 A.M. and 6:00 A.M. on any day or at any time on Sunday after 3:00 A.M. and before 12:00 noon. No beer shall be consumed or opened for consumption on or about the premises of a permittee for the sale of beer for consumption on the premises after 3:15 A.M. (1995 Code, § 8-221)

8-221. Sanitation requirements and standards for licensed premises; inspections; placement of signs. (1) Any person holding a permit under this chapter for sale for consumption on the premises shall keep and maintain the premises in a clean and sanitary condition, the requirements of which shall be the equivalent of that required for a rating of class "B" or better as established by the Tennessee state department of conservation, division of hotel and restaurant inspections.

(2) The city health officer or any properly authorized person is hereby authorized to enter the premises of a permittee, at all reasonable hours, for the making of such inspections as may be necessary. The determination of the sanitary conditions is solely a question for the city.

(3) Any holder of a beer permit shall not advertise beer by signs or displays located on, attached to, or extending over the public sidewalks or public rights of way. (1995 Code, § 8-222)

8-222. Minors prohibited from being on premises. No holder of a permit to sell beer for consumption on the premises shall allow minors to be on the premises at any time, except the same be in the course of his or her employment unless the holder of the permit, within the past thirty (30) days has delivered to the city administrator a certification, with such documentation as the city administrator may require, that demonstrates that the sale of food and beverages excluding beer sales, in the holder's place of business constitutes more than fifty (50%) percent of gross sales. This certification will be reviewed by the city administrator after the third (3rd) month and after the sixth (6th) month from the date of the certification to determine if the permit holder is in compliance with the gross sales provision.

"Gross sales" shall be defined as total sales of prepared food and beverages, excluding beer sales, at the holder's place of business. (1995 Code, § 8-224)

8-223. Privilege tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer a privilege tax of one hundred dollars (\$100.00). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax on January 1, 1994, and each successive January 1, to the City of Fayetteville, 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. (1995 Code, § 8-225)

8-224. Violations and penalty. Each day's violation of each or any provision of this chapter by any permit holder, or each sale made in violation of any provision of this chapter shall constitute a separate misdemeanor for which the permit issued hereunder may be suspended or revoked in addition to any fine imposed under the general penalty clause for this code. (1995 Code, § 8-223)

CHAPTER 3

ALCOHOLIC BEVERAGE PRIVILEGE TAX

SECTION

8-301. Levied on retail sale of alcoholic beverages for consumption on the premises.

8-302. City administrator's responsibility.

8-301. Levied on retail sale of alcoholic beverages for consumption on premises. (1) Pursuant to the authority contained in *Tennessee Code Annotated*, § 57-4-301, there is hereby levied a privilege tax upon each and every person, firm, and corporation engaging in the business of selling at retail in the City of Fayetteville alcoholic beverages for consumption on the premises where sold. For the exercise of such privilege, the following taxes are levied for the City of Fayetteville general fund purposes to be paid annually:

Private club	\$150.00
Hotel and motel	500.00
Convention center	250.00
Premiere-type tourist resort	750.00
Restaurant, according to seating capacity, on licensed premises:	
75-125 seats	300.00
126-175 seats	375.00
176-225 seats	400.00
226-275 seats	450.00
276 seats and over	500.00

If a restaurant is licensed by the Alcoholic Beverage Commission to sell wine only under *Tennessee Code Annotated*, § 57-4-101(n), the privilege tax imposed shall be one-fifth (1/5) the amount specified above.

Historic performing arts center	\$150.00
Urban park center	250.00
Commercial passenger boat	375.00
Historic mansion house site	150.00
Historic interpretive center	150.00
Community theatre	150.00
Zoological institution	150.00
Museum	150.00
Establishment in a terminal building of a commercial air carrier airport	500.00
Commercial airline travel club	250.00
Public aquarium	150.00

(2) Every person, firm, and corporation engaging in the business of selling at retail in the City of Fayetteville alcoholic beverages for consumption on the premises where sold shall, before commencing business, pay the privilege tax to the city and receive a license to be displayed at all times at the business location.

(3) No tax authorized or imposed by this section shall be levied or assessed from any charitable, nonprofit or political organization selling alcoholic beverages at retail pursuant to a special occasion license. (1995 Code, § 8-301)

8-302. City administrator's responsibility. It shall be the responsibility of the city administrator to insure that the city receives its share of the fifteen percent (15%) tax levied on the gross sales of alcoholic beverages sold at retail for consumption on premises and collected by the commissioner of the Alcoholic Beverage Commission under *Tennessee Code Annotated*, § 57-4-301(c), and distributed to the state and its political subdivisions under *Tennessee Code Annotated*, § 57-4-306. (1995 Code, § 8-302)

TITLE 9**BUSINESS, PEDDLERS, SOLICITORS, ETC.¹****CHAPTER**

1. MISCELLANEOUS.
2. PEDDLERS, ETC.
3. CHARITABLE SOLICITORS.
4. TAXICABS.
5. POOL ROOMS.
6. DRUGS.
7. PINBALL MACHINES.
8. MASSAGE PARLORS.
9. ADULT BOOK STORES AND MOTION PICTURE THEATERS.
10. PORTABLE STANDS.
11. CABLE TELEVISION.

CHAPTER 1**MISCELLANEOUS****SECTION**

9-101. "Going out of business" sales.

9-101. "Going out of business" sales. It shall be unlawful for any person falsely to represent a sale as being a "going out of business" sale. A "going out of business" sale, for the purposes of this section, shall be a "fire sale," "bankrupt sale," "loss of lease sale," or any other sale made in anticipation of the termination of a business at its present location. When any person, after advertising a "going out of business" sale, adds to his stock or fails to go out of business within ninety (90) days he shall prima facie be deemed to have violated this section. (1995 Code, § 9-101)

¹Municipal code references

Building, plumbing, wiring and residential regulations: title 12.

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Zoning: title 14.

CHAPTER 2

PEDDLERS, ETC.¹

SECTION

- 9-201. Permit required.
- 9-202. Exemptions.
- 9-203. Application for permit.
- 9-204. Issuance or refusal of permit.
- 9-205. Appeal.
- 9-206. Loud noises and speaking devices.
- 9-207. Use of streets and sidewalks.
- 9-208. Exhibition of permit.
- 9-209. Police officers to enforce.
- 9-210. Revocation or suspension of permit.
- 9-211. Reapplication.
- 9-212. Expiration and renewal of permit.

9-201. Permit required. It shall be unlawful for any peddler, canvasser, solicitor, or transient merchant to ply his trade within the corporate limits without first obtaining a permit in compliance with the provisions of this chapter. No permit shall be used at any time by any person other than the one to whom it is issued. (1995 Code, § 9-201)

9-202. Exemptions. The terms of this chapter shall not be applicable to persons selling at wholesale to dealers, nor to street vendors, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to bona fide charitable, religious, patriotic or philanthropic organizations. (1995 Code, § 9-202, modified)

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

- (1) Name and physical description of applicant.
- (2) Complete permanent home address and local address of the applicant and, in the case of transient merchants, the local address from which proposed sales will be made.
- (3) A brief description of the nature of the business and the goods to be sold.

¹Municipal code reference
Privilege taxes: title 5.

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

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

(6) Government issued identification that has a photo such as a driver's license.

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

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

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

(10) At the time of filing the application, a fee of twenty dollars (\$20.00) shall be paid to the municipality to cover the cost of investigating the facts stated therein. (1995 Code, § 9-203, modified)

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

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

(3) If, on the other hand, the chief's report indicates that the moral reputation and business responsibility of the applicant are satisfactory the city clerk shall issue a permit upon the payment of all applicable privilege taxes and the filing of the bond required by § 9-206. The city clerk shall keep a permanent record of all permits issued. (1995 Code, § 9-204)

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

police officer in the same manner as a summons at least three (3) days prior to the date set for hearing. (1995 Code, § 9-205)

9-206. Loud noises and speaking devices. No permittee, nor any person in his behalf, shall make unreasonably loud noise upon any of the sidewalks, streets, alleys, parks or other public places of the municipality or upon private premises for the purpose of attracting attention to any goods, wares or merchandise which such permittee proposes to sell. (1995 Code, § 9-207, modified)

9-207. Use of streets and sidewalks. No permittee shall have any exclusive right to any location in the public streets or sidewalks, nor shall any be permitted a stationary location thereon, nor shall any be permitted to operate in a congested area where the operation might impede or inconvenience the public use of the streets or sidewalks. For the purpose of this chapter, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced. (1995 Code, § 9-208, modified)

9-208. Exhibition of permit. Permittees are required to exhibit their permits at the request of any police officer or citizen. (1995 Code, § 9-209)

9-209. Police officers to enforce. It shall be the duty of all police officers to see that the provisions of this chapter are enforced. (1995 Code, § 9-210)

9-210. Revocation or suspension of permit. (1) Permits issued under the provisions of this chapter may be revoked by the governing body after notice and hearing, for any of the following causes:

- (a) Fraud, misrepresentation, or incorrect statement contained in the application for permit, or made in the course of carrying on the business of solicitor, canvasser, peddler, transient merchant, itinerant merchant, or itinerant vendor.
- (b) Any violation of this chapter.
- (c) Conviction of any crime or misdemeanor.
- (d) Conducting the business of peddler, canvasser, solicitor, transient merchant, itinerant merchant, or itinerant vendor, as the case may be, in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.

(2) Notice of the hearing for revocation of a permit shall be given by the city clerk, in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed to the permittee at his last known address at least five (5) days prior to the date set for hearing, or

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

(3) When reasonably necessary in the public interest the chief of police may suspend a permit pending the revocation hearing. (1995 Code, § 9-211, modified)

9-211. Reapplication. No permittee whose permit has been revoked shall make further application until a period of at least six (6) months has elapsed since the last revocation. (1995 Code, § 9-212)

9-212. Expiration and renewal of permit. Permits issued under the provisions of this chapter shall expire on the same date that the permittee's privilege license expires and shall be renewed without cost if the permittee applies for and obtains a new privilege license within thirty (30) days thereafter. Permits issued to permittees who are not subject to a privilege tax shall be issued for one (1) year. An application for a renewal shall be made substantially in the same form as an original application. However, only so much of the application shall be completed as is necessary to reflect conditions which have changed since the last application was filed. (1995 Code, § 9-213)

CHAPTER 3

CHARITABLE SOLICITORS

SECTION

- 9-301. Permit required.
- 9-302. Prerequisites for a permit.
- 9-303. Denial of a permit.
- 9-304. Exhibition of permit.

9-301. Permit required. No person shall solicit contributions or anything else of value for any real or alleged charitable or religious purpose without a permit from the city clerk authorizing such solicitation. Provided, however, that this section shall not apply to any established organization or church located in the City of Fayetteville or Lincoln County operated exclusively for charitable or religious purposes if the solicitations are conducted exclusively among the members thereof, voluntarily and without remuneration for making such solicitations, or if the solicitations are in the form of collections or contributions at the regular assemblies of any such established organization or church. (1995 Code, § 9-301, modified)

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

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

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

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

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

(5) The solicitation is prompted solely by a desire to finance the charitable cause described by the applicant. (1995 Code, § 9-302)

9-303. Denial of a permit. Any applicant for a permit to make charitable or religious solicitations may appeal to the governing body if he has not been granted a permit within fifteen (15) days after he makes application therefor. (1995 Code, § 9-303)

9-304. Exhibition of permit. Any solicitor required by this chapter to have a permit shall exhibit such permit at the request of any police officer or person solicited. (1995 Code, § 9-304)

CHAPTER 4

TAXICABS¹

SECTION

- 9-401. Taxicab permit and privilege license required.
- 9-402. Solicitation of passengers on streets.
- 9-403. Parking restricted.
- 9-404. Drivers to use direct routes.
- 9-405. Taxicabs not to be used for illegal purposes.
- 9-406. Miscellaneous prohibited conduct by drivers.
- 9-407. Transportation of more than one passenger at the same time.
- 9-408. Mechanical condition of vehicles.
- 9-409. Cleanliness of vehicles.
- 9-410. Liability insurance required.
- 9-411. Vehicles exempt from the provisions of this chapter.
- 9-412. License and permit required for drivers.

9-401. Taxicab permit and privilege license required. Terminals to be provided. It shall be unlawful for any taxicab company to operate within the city unless it maintains a terminal station or depot.

9-402. Solicitation of passengers on streets. No driver or agency of any taxicab company shall be allowed to solicit passengers upon the streets of the city.

9-403. Parking restricted. It shall be unlawful to park any taxicab on any street except in such places as have been specifically designated and marked by the City of Fayetteville for the use of taxicabs. 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.

9-404. Drivers to use direct routes. Taxicab drivers shall always deliver their passengers to their destinations by the most direct available route.

9-405. 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.

¹Municipal code reference
Privilege taxes: title 5.

9-406. Miscellaneous prohibited conduct by drivers. It shall be unlawful or any taxicab driver, while on duty, to be under the influence of drugs, 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 unreasonably disturb the peace, quiet, and tranquility of the municipality in any way.

9-407. 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. (1979 code, § 5-107)

9-408. Mechanical condition of vehicles. It shall be unlawful for any person to operate any taxicab in the City of Fayetteville 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 state 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 maybe reasonably necessary to provide for the safety of the public and the continuous satisfactory operation of the taxicab.

9-409. 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.

9-410. Liability insurance required. No taxicab franchise shall be issued or continued in operation unless there is in full force and effect a liability insurance policy for each vehicle authorized in the amount of one hundred thousand dollars (\$100,000.00) for bodily injury or death to any one person, three hundred thousand dollars (\$300,000.00) for bodily injuries or death to more than one person which are sustained in the same accident, and one hundred thousand dollars (\$100,000.00) for property damage resulting from anyone accident. The insurance policy required by this section shall contain a provision that it shall not be cancelled except after at least five (5) days' written notice is given by the insurer to both the insured and the city recorder.

The insurance policy shall be filed with the city recorder who shall issue a receipt therefor. The receipt shall show the policy number, the name of the insurance company, the name of the insured, and the make, color, style, and motor or manufacturer's serial number of each vehicle covered by the policy. A copy of such receipt shall be kept in each insured taxicab and shall be exhibited

by the driver to any police officer upon request and to any person or such person's agent, who is injured or damaged by such vehicle.

9-411. Vehicles exempt from the provisions of this chapter. The provisions of this chapter shall not be applicable to motor busses or other motor vehicles engaged in the carriage of passengers or their luggage for hire that are subject to the jurisdiction of the Public Service Commission of the state, nor to motor busses operated in the city under franchises granted by the City of Fayetteville where other provisions are made by ordinance or otherwise for the carrying of liability insurance or the filing of bonds against liability for death, personal injuries, or property damage.

9-412. License and permit required for drivers. No person shall drive a taxicab unless he is in possession of a state special chauffeur's license.

CHAPTER 5**POOL ROOMS¹****SECTION**

9-501. Hours of operation regulated.

9-502. Minors to be kept out; exception.

9-501. Hours of operation regulated. It shall be unlawful for any person to open, maintain, conduct, or operate any place where pool tables or billiard tables are kept for public use or hire at any time on Sunday or between the hours of 12:00 midnight and 4:00 A.M. on other days. (1995 Code, § 9-501, modified)

9-502. Minors to be kept out; exception. It shall be unlawful for any person engaged regularly, or otherwise, in keeping billiard, bagatelle, or pool rooms or tables, their employees, agents, servants, or other persons for them, knowingly to permit any person under the age of eighteen (18) years to play on said tables at any game of billiards, bagatelle, pool, or other games requiring the use of cue and balls, without first having obtained the written consent of a parent or guardian; provided that this section shall not apply to the use of billiards, bagatelle, and pool tables in private residences. (1995 Code, § 9-502, modified)

¹Municipal code reference
Privilege taxes: title 5.

CHAPTER 6**DRUGS****SECTION**

- 9-601. Definitions.
- 9-602. Distribution regulated.
- 9-603. Possession regulated.
- 9-604. Exceptions.

9-601. Definitions. For the purposes of this chapter the following words and phrases shall have the following meanings, unless the context otherwise requires:

(1) "Amidone" shall mean any substance identified chemically as (4-4-Diphenyl-6-Dimethylamine-Heptanone-3), or any salt thereof, by whatever trade name designated.

(2) "Barbital" shall be held to mean and include the salts of barbituric acid, also known as maloylurea, or any derivative or compounds or any preparations or mixtures thereof possessing hypnotic properties or effects.

(3) "Cannabis" includes all parts of the plant cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture or preparation of such plant, its seeds, or resin; but shall not include the mature stalks of such plants, fiber produced from such stalks, oil, or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks, (except the resin extracted therefrom) fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination.

(4) "Coca leaves" includes cocaine and any compound, manufacture, salt, derivative, mixture, or preparation of coca leaves, except derivatives of coca leaves which do not contain cocaine, ecgonine, or substances from which cocaine or ecgonine may be synthesized or made.

(5) "Dentist" means a person authorized by the State of Tennessee to practice dentistry in this state.

(6) "Isoamidone" shall mean any substance identified chemically as (4,4-Diphenyl-5-Nethyl-6-Dimethylaminohexanone-3-), or any salt thereof, by whatever trade name designated.

(7) "Isonipecaine" shall mean any substance identified chemically as 1-Nethyl-4 phenyl-piperidine-4-carboxylic acid ethyl ester, or any salt thereof, by whatever trade name designated.

(8) "Keto-Bemidone" shall mean any substance identified chemically as (4-(3-Hydroxyphenyl)-I-Methyl-4-piperidyl ethyl ketone hydrochloride) or any salt thereof, by whatever trade name designated.

(9) "Legend drugs" means those drugs carrying the "caution label" or "warning label," "caution: may be habit forming" or any drugs carrying the prescription legend, "to be dispensed only on a physician's prescription," as defined by the federal food and drug administration.

(10) "Licensed physician" means a person authorized by the laws of the State of Tennessee to practice medicine in this state.

(11) "Narcotic drugs" means coca leaves, opium, isonipecaine, amidone, isoamidone, and keto-bemidone and every substance neither chemically or physically distinguishable from them.

(12) "Opium" includes morphine, codeine, and heroin, and any compound, manufacture, salt, derivative, mixture, or preparation of opium, but does not include apomorphine or any of its salts.

(13) "Registered pharmacist" means a person registered under the laws of the State of Tennessee to practice pharmacy in this state.

(14) "Veterinarian" means a person authorized by the laws of the State of Tennessee to practice veterinary medicine in this state. (1995 Code, § 9-601)

9-602. Distribution regulated. It shall be unlawful for any person, firm or corporation to possess, sell, barter or give away any drug known as barbital, coca leaves, opium, narcotic drugs, cannabis, isonipecaine, amidone, isoamidone, keto-bemidone and legend drugs, as defined in § 9-601 hereof, except upon the written prescription of a duly licensed physician, dentist or veterinarian, and compounded or dispensed by a duly registered pharmacist. (1995 Code, § 9-602)

9-603. Possession regulated. It shall be unlawful for any person to have in his possession any drug defined or enumerated in § 9-601 hereof without the same having been prescribed by a duly licensed physician, dentist, or a veterinarian, and having been dispensed by a duly registered pharmacist. Provided, however, that this section shall not apply to authorized agents and representatives of pharmaceutical manufacturers, firms, or wholesalers. (1995 Code, § 9-603)

9-604. Exceptions. There are exempted from the provisions of this chapter the sale of barbital, coca leaves, opium, narcotic drugs, cannabis, isonipecaine, amidone, isoamidone, keto-bemidone, and legend drugs by legitimate wholesale druggists to registered pharmacists and the sale by registered pharmacists to duly licensed physicians, dentists, and veterinarians. (1995 Code, § 9-604)

CHAPTER 7

PINBALL MACHINES

SECTION

9-701. Operation by minors prohibited.

9-702. Responsibility for determining age of players.

9-701. Operation by minors prohibited. 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 where there is a payoff to the player or operator of any kind whatsoever, whether made playable by a mechanical device or otherwise, or whether the charge for playing is collected by mechanical device or otherwise. (1995 Code, § 9-701)

9-702. Responsibility for determining age of players. It shall be the duty of such owner, operator, manager, person in charge, or employee to ascertain or determine the age of any such player, and ignorance of the age or mis-information relative thereto shall not excuse any such owner, operator, manager, person in charge or employee. (1995 Code, § 9-702)

CHAPTER 8

MASSAGE PARLORS

SECTION

- 9-801. Definitions.
- 9-802. Permits required for massage parlors and massagers.
- 9-803. Application for massage parlor permit; fee; investigation of applicant; hearing on application; issuance or refusal of permit.
- 9-804. Application for massager's permit; fee; physical examinations; investigation of applicant; hearing on application; issuance or refusal of permit.
- 9-805. Authority of chief of police to enter massage parlors.
- 9-806. Authority of chief of police to suspend massage parlor permits.
- 9-807. Authority of board to revoke permits.
- 9-808. Register of patrons to be kept.
- 9-809. Minimum standards for massage parlors.
- 9-810. Precautions against spreading contagious diseases.
- 9-811. Permits to be displayed and not to be altered.
- 9-812. Prohibited conduct.
- 9-813. Expiration and renewal of permits.
- 9-814. Permits not transferable.

9-801. Definitions. As used in this chapter, unless the context otherwise requires:

(1) "Employee" means any and all persons, other than massagers, who render any service to patrons of massage parlors.

(2) "Massage" means the administration by any person of any method of exerting or applying pressure, friction, moisture, heat, or cold to the human body and/or the rubbing, stroking, kneading, pounding, tapping, or otherwise manipulating a part or the whole of the human body or the muscles or joints thereof, by any physical or mechanical means, for any form of consideration.

(3) "Massage parlor" means any establishment having a fixed place of business where the administering of massages is the principal or main business purpose or activity that is conducted on the premises. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a duly licensed physician, surgeon, physical therapist, chiropractor or osteopath.

(4) "Massager" means any person who administers a massage to another person at a massage parlor.

(5) "Permittee" means the individual, partnership, association, joint stock company, corporation, or combination of individuals of whatever form or character, which is the legal holder of a massage parlor permit as provided by this chapter. (1995 Code, § 9-901)

9-802. Permits required for massage parlors and massagers. It shall be unlawful for any person to establish, maintain, or operate a massage parlor in the city without a valid permit issued pursuant to this chapter. It shall likewise be unlawful for any person to perform the services of a massager at a massage parlor in the city without a valid permit issued pursuant to this chapter. (1995 Code, § 9-902)

9-803. Application for massage parlor permit; fee; investigation of applicant; hearing on application; issuance or refusal of permit.

(1) Any person desiring a massage parlor permit to establish, maintain, or operate a massage parlor in the city shall make application to the chief of police on an application form provided by the City of Fayetteville, which application form shall contain the name and address of the place where the applicant proposes to operate, maintain, or establish a massage parlor in the city. Each massage parlor permit application shall be accompanied by an investigation fee of fifty dollars (\$50.00).

The application shall state thereon that: "It is unlawful for any person to make a false statement on this application. The making of a false statement shall constitute grounds for denial of an application or revocation of a permit."

The application shall include a business, occupation, or employment history of the applicant for the five (5) years immediately preceding the date of the application. It shall also include a detailed statement of any and all convictions, pleas of nolo contendere, or forfeitures suffered by the applicant (if the applicant is a partnership or association, any partner or member thereof; or if the applicant is a corporation, any officer, director, or manager thereof, or any shareholder thereof) on any charge of prostitution, assignation, pandering, obscenity, lewdness, crimes against nature, or any provision of this chapter, or any provision of a similar law or ordinance in any other jurisdiction.

The chief of police shall arrange to have the fingerprints of each applicant taken, which fingerprints shall constitute a part of the application. There shall be filed with the application at least two portrait photographs of the applicant taken within sixty (60) days immediately prior to the date of application. Such photographs shall not be less than two inches by two inches (2" x 2") and shall show the head and shoulders of the applicant in a clear and distinguishable manner.

(2) Upon receipt of the application and investigation fee, the chief of police shall make or cause to be made an investigation of the applicant, which shall include:

- (a) The criminal record of the applicant.
- (b) Communication with the employers, business associates, or fellow employees of the applicant during the five (5) years preceding the investigation.
- (c) Determination of whether the premises proposed to be utilized by the applicant comply with the provisions of this chapter, and

all other zoning ordinances, and all other building, fire, plumbing, and electrical codes.

(d) Any and all other matters which the chief of police deems to be material to a reasonable consideration of the applicant.

(3) The chief of police shall file his investigative report, with all supporting material and documentation, with the city attorney not later than twenty-one (21) days following the date of application; however, the chief of police may file an amended report at any time additional material information concerning the applicant comes to his attention.

(4) Upon receipt of the report of the chief of police, the city attorney shall docket the application on the agenda of the next regular meeting of the board of mayor and aldermen, at which time a hearing shall be conducted on the application. The board, after a consideration of the application and investigative report, after an open examination of the applicant, after opportunity has been given for the introduction of additional information by any interested party, and after a full and complete consideration of all relevant facts and circumstances, shall authorize the issuance of a massage parlor permit at the premises designated in the application within one week following the hearing, unless it finds that the application is deficient, the application contains false information, the applicant has not complied with all applicable laws and ordinances, the applicant has been convicted, pleaded nolo contendere, or suffered a forfeiture on a charge of prostitution, assignation, pandering, obscenity, lewdness, crime against nature, or any provision of this chapter or any provision of a similar law or ordinance in any other jurisdiction. Notice of the time and place of the hearing before the board shall be posted in a conspicuous place upon the premises specified in the application at least five (5) days prior thereto, and the applicant shall maintain the said notice until after the hearing.

(5) The board may not authorize the issuance of a permit to an applicant whose proposed premises for the establishment, maintenance, or operation of a massage parlor is within one thousand feet (1,000'), measured from property line to property line, of any church, school, hospital, funeral parlor, library, museum, playground, or any other public or private building or premises likely to be utilized by persons under the age of eighteen (18) years. (1995 Code, § 9-903)

9-804. Application for massager's permit; fee; physical examinations; investigation of applicant; hearing on application; issuance or refusal of permit. (1) Any person desiring a permit to act as a massager in a massage parlor in the city shall make application to the chief of police on an application form provided by the City of Fayetteville, which application shall contain spaces for the applicant's name, address, telephone number, all previous addresses within the year immediately preceding the date of the application, date of birth, place of birth, height, weight, massage training,

and current employment. Each massager permit application shall be accompanied by an investigation fee of twenty-five dollars (\$25.00).

The application shall state thereon that: "It is unlawful for any person to make a false statement on this application. The making of a false statement shall constitute grounds for a denial of an application or revocation of a permit."

The application shall also include a detailed statement of any and all convictions, pleas of nolo contendere, or forfeitures suffered by the applicant on any charge of prostitution, assignation, pandering, obscenity, lewdness, crimes against nature, or any provision of this chapter or any provision of a similar law or ordinance in any other jurisdiction.

The chief of police shall arrange to have the fingerprints of each applicant taken, which fingerprints shall constitute a part of the application. There shall be filed with the application at least two portrait photographs of the applicant taken within sixty (60) days immediately prior to the date of application. Such photographs shall be not less than two inches by two inches (2" x 2") and shall show the head and shoulders of the applicant in a clear and distinguishable manner.

(2) All persons who desire to act as a massager at a massage parlor in the City of Fayetteville shall attach to their applications a certification from a physician licensed by the State of Tennessee that the applicant has submitted to a physical examination for contagious and communicable diseases, and that the applicant is either free from any contagious or communicable diseases or is incapable of communicating any such diseases to others. The physical examination shall include a recognized blood test for syphilis, a culture for gonorrhea, and a chest X-ray which shall be made and interpreted by a trained radiologist.

(3) Upon receipt of the application and investigation fee, the chief of police shall make or cause to be made an investigation of the application, which shall include:

- (a) The criminal record of the applicant.
- (b) Communication with the employers, business associates, or fellow employees of the applicant during the five (5) years preceding the investigation.
- (c) Any and all other matters which the chief of police deems to be material to a reasonable consideration of the applicant.

(4) The chief of police shall file his investigative report, with all supporting material and documentation, with the city attorney not later than twenty-one (21) days following the date of application; however, the chief of police may file an amended report at any time additional material information concerning the applicant comes to his attention.

(5) Upon receipt of the report of the chief of police, the city attorney shall docket the application on the agenda of the next regular meeting of the board of mayor and aldermen, at which time a hearing shall be conducted on the application. The board, after a consideration of the application and investigative

report, after an open examination of the applicant, after opportunity has been given for the introduction of additional information by any interested party, and after a full and complete consideration of all relevant facts and circumstances, shall authorize the issuance of a massager's permit within one week following the hearing, unless it finds that the application is deficient, the application contains false information, the applicant has not complied with all applicable laws and ordinances, the applicant has been convicted, pleaded nolo contendere, or suffered a forfeiture on a charge of prostitution, assignation, pandering, obscenity, lewdness, crime against nature, or any provision of this chapter or any provision of a similar law or ordinance in any other jurisdiction.

(6) All massagers who possess valid permits for administering massages in a massage parlor in the City of Fayetteville shall undergo a physical examination, including the aforementioned tests for contagious and communicable diseases, at least once every six (6) months following the issuance of their massager permits. When the chief of police or his duly authorized representative has cause to believe that the massager is capable of communicating any contagious diseases to others, he may at any time require an immediate physical examination of any such person. (1995 Code, § 9-904)

9-805. Authority of chief of police to enter massage parlors. To enforce the provisions of this chapter, the chief of police or his duly authorized representative is hereby authorized during business hours to enter, examine, and survey any premises in the city for which a massage parlor permit has been issued pursuant to this chapter. (1995 Code, § 9-905)

9-806. Authority of chief of police to suspend massage parlor permits. If the chief of police finds that the massage parlor, for which the massage parlor permit was issued, does not conform to this chapter or if the permittee has refused the chief of police or his duly authorized representative the right to enter the premises to enforce the provisions of this chapter, the chief of police may temporarily suspend the massage parlor permit, pending a hearing before the board of mayor and aldermen. A copy of the temporary suspension which shall set forth the reason for said suspension shall be sent to the city attorney for docketing on the next regular agenda of the board of mayor and aldermen and sent to the permittee at his place of business by certified mail. No person shall operate a massage parlor when subject to an order of suspension. The board of mayor and aldermen may, after an open hearing, reinstate a suspended massage parlor permit when no fact or condition exists which would otherwise warrant the refusal to grant a massage parlor permit under the terms of this chapter. (1995 Code, § 9-906)

9-807. Authority of board to revoke permits. Any massage parlor permit or any massager permit granted under this chapter shall be revoked by the board of mayor and aldermen, after notice and hearing, if the permittee or

massager has been convicted, pleaded nolo contendere, or suffered a forfeiture on any charge of prostitution, assignation, pandering, obscenity, lewdness, crime against nature, or any provision of this chapter, or any provision of a similar law or ordinance in any other jurisdiction.

The notice required by this section shall be sent by certified mail to the permittee or massager at his last known address at least five (5) days prior to the date set for the hearing before the board of mayor and aldermen.

If any massager or other employee of any permittee violates any provision of this chapter, it shall be presumed that such violation was with the knowledge and consent of the permittee; if any permittee fails to overcome the said presumption, the massage parlor permit issued to him shall be subject to permanent revocation in the manner set out in this section. (1995 Code, § 9-907)

9-808. Register of patrons to be kept. Every permittee shall maintain a daily register, showing the names and addresses of all patrons, along with the name of the massagers assigned and the fee charged. The daily register shall be kept in a permanent, well-bound book; it shall be kept on file for at least one (1) year. (1995 Code, § 9-908)

9-809. Minimum standards for massage parlors. No massage parlor shall be operated, established or maintained in the city that does not comply with the following minimum standards:

(1) The premises shall have adequate equipment for disinfecting and sterilizing nondisposable instruments and materials used in administering massages. Such nondisposable instruments and materials shall be disinfected after use on each patron.

(2) Closed cabinets shall be provided and used for the storage of clean linen, towels, and other materials used in connection with administering massages. All soiled linens, towels, and other materials shall be kept in properly covered containers or cabinets, which containers or cabinets shall be kept separate from the clean storage areas.

(3) Clean linen and towels shall be provided for each massage patron. No common use of towels or linens shall be permitted.

(4) All massage tables, bathtubs, shower stalls, steam or bath areas, and floors shall have surfaces which may be readily disinfected.

(5) Oils, creams, lotions, or other preparations used in administering massages shall be kept in clean, closed containers or cabinets.

(6) Adequate bathing, dressing, locker, and toilet facilities shall be provided for the patrons to be served at any given time. Separate bathing, dressing, locker, toilet, and massage room facilities shall be provided for male and female patrons.

(7) All walls, ceilings, floors, pools, showers, bathtubs, steam rooms, and all other physical facilities shall be in good repair and maintained in a clean

and sanitary condition. Wet and dry heat rooms, steam or vapor rooms, or steam or vapor cabinets, shower compartments, and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs and showers shall be thoroughly cleaned after each use. When carpeting is used on the floors, it shall be kept dry.

(8) The premises shall be equipped with a service sink for custodial services.

(9) Eating in the massage work areas shall not be permitted.

(10) Animals, except for seeing-eye dogs, shall not be permitted in the massage work areas. (1995 Code, § 9-909)

9-810. Precautions against spreading contagious diseases. No massager shall administer a massage at a massage parlor if the massager knows or should know that he or she is not free of any contagious or communicable disease; nor shall a massager administer a massage at a massage parlor to any patron exhibiting any skin fungus, skin infection, skin inflammation, or skin eruption, unless the patron presents a statement from a physician licensed by the State of Tennessee certifying that the patron may be safely massaged and prescribing the conditions therefor. All massagers shall wash his or her hands in hot running water, using a proper soap or disinfectant, before and after the administration of each massage. (1995 Code, § 9-910)

9-811. Permits to be displayed and not to be altered. Every permittee to whom a massage parlor permit shall have been granted shall display said massage parlor permit in a conspicuous place in the massage parlor or establishment so that it may be readily seen by persons entering the premises.

Every person to whom a massager permit shall have been granted shall, while in a massage parlor, openly display the said permit by pinning or clasping it to his or her outer garments so that it may be readily seen by patrons and other interested persons.

No permit shall be altered or defaced in any manner by any permittee or massager. (1995 Code, § 9-911)

9-812. Prohibited conduct. (1) It shall be unlawful for any person in a massage parlor to place his or her hand or hands upon or to touch with any part of his or her body, or to fondle in any manner, or to massage, a sexual or genital part of any other person. Sexual or genital parts shall include the genitals, pubic area, buttocks, anus, or perineum of any person, or the vulva or breast of a female.

(2) It shall be unlawful for any person in a massage parlor to expose his or her sexual or genital parts, or any portion thereof, to any other person. It shall also be unlawful for any person in the massage parlor to expose the sexual or genital parts, or any portion thereof, of any other person.

(3) It shall be unlawful for any person while in the presence of any other person in a massage parlor to fail to conceal with a fully opaque covering the sexual or genital parts of his or her body.

(4) It shall be unlawful for any person owning, operating, or managing a massage parlor knowingly to cause, allow, or permit in or about such massage parlor, any agent, employee, or any other person under his control or supervision to perform such acts prohibited in this chapter.

(5) Massagers issued a permit under this chapter may not administer massages at any place other than at a massage parlor which has also been issued a permit hereunder.

(6) Every person owning, operating or managing a massage parlor shall post a copy of this chapter in a conspicuous place in the massage parlor so that it may be readily seen by persons entering the premises.

(7) It shall be unlawful for any massage parlor to remain open or provide services at any time between the hours of 10:00 P.M. and 10:00 A.M. or at any time on Sundays.

(8) The administering of massages shall not be conducted in private rooms or areas but shall be conducted in separate general areas for males and females. (1995 Code, § 9-912)

9-813. Expiration and renewal of permits. Each massage parlor permit shall expire one (1) year from the date of issue. Each massager shall permit shall also expire one (1) year from the date of issue. The application for renewal of either a massage parlor permit or a massager permit shall be accompanied by an investigative fee of ten dollars (\$10.00). (1995 Code, § 9-913)

9-814. Permits not transferrable. No permit issued hereunder shall be transferrable. (1995 Code, § 9-914)

CHAPTER 9

ADULT BOOK STORES AND MOTION PICTURE THEATERS

SECTION

9-901. Definitions.

9-902. Location near other such businesses, churches, etc., prohibited.

9-903. Location near residence zones prohibited without a waiver.

9-901. Definitions. As used in this chapter, unless the context otherwise requires:

(1) "Adult book store" means an establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas" (as described below) or an establishment with a segment or section devoted to the sale or display of such material.

(2) "Adult motion picture theater" is an enclosure or enclosed building used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas" (as defined below) for observation by patrons therein.

(3) For the purpose of this chapter, "specified anatomical areas" is defined as:

(a) Less than completely and opaquely covered:

(i) Human genitals, pubic region,

(ii) Buttock, and

(iii) Female breast below a point immediately above the top of the areola; and

(b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(4) For the purpose of this chapter, "specified sexual activities" is defined as:

(a) Human genitals in a state of sexual stimulation or arousal.

(b) Acts of human masturbation, sexual intercourse, or sodomy.

(c) Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast. (1995 Code, § 9-1001)

9-902. Location near other such businesses, churches, etc., prohibited. It shall be unlawful to establish, maintain, or operate an adult book store or adult motion picture theater when the same shall be located:

(1) Within one thousand feet (1,000') of another adult book store or adult motion picture theater, measured by the most direct method from building to building or, in the case of an enclosure, from enclosure to enclosure.

(2) Within one thousand feet (1,000') of any church, school, hospital, library, museum or public playground, measured by the most direct method from building or enclosure to building or enclosure or, in the case of a playground, from the building or enclosure to the edge of the lot line of the playground. (1995 Code, § 9-1002)

9-903. Location near residence zones prohibited without a waiver. It shall be unlawful to establish, maintain, or operate an adult movie theater or an adult book store in the City of Fayetteville within five hundred feet (500') of any area zoned for residential uses unless a waiver has been obtained from the board of mayor and aldermen upon the following conditions:

(1) A petition has been presented to the board of mayor and aldermen signed by fifty-one percent (51%) of those persons owning, residing, or doing business within five hundred feet (500') of the proposed location and the board of mayor and aldermen after a public hearing duly called has made an affirmative finding of the following conditions:

(a) That the establishment, maintenance, location, and operation of the adult book store or adult motion picture theater use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare; and

(b) That the adult book store or adult motion picture theater use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes permitted, nor substantially diminish or impair property values within the neighborhood; and

(c) That the establishment of the adult book store or adult motion picture theater use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in that district; and

(d) That adequate utilities, access roads, drainage, and other necessary facilities have been or will be provided; and

(e) That adequate measures have been or will be taken to provide ingress and egress designed so as to minimize traffic congestion in the public streets; and

(f) That the adult book store or adult motion picture theater use will, in all other respects, conform to the applicable regulations and/or ordinances of the district in which it is located, including, but not limited to, zoning, building, and fire.

(2) Said petition above mentioned shall be accompanied by an affidavit stating that the one circulating the petition personally witnessed the signatures on the petition and that the same were affixed to the petition by the persons whose names appear thereon. (1995 Code, § 9-1003)

CHAPTER 10

PORTABLE STANDS

SECTION

- 9-1001. Definitions.
- 9-1002. Set back lines.
- 9-1003. Permits.
- 9-1004. Signs.
- 9-1005. Merchandise.
- 9-1006. Existing portable stands.
- 9-1007. Violations and penalty.

9-1001. Definitions. (1) "Building official" shall mean the building official of the City of Fayetteville.

(2) "Portable stands" means a vehicle, truck, trailer or a temporary stand or building which has no permanent foundation and from which merchandise is displayed, sold or given away.

(3) "Zoning ordinance" shall mean the zoning ordinance in effect in the City of Fayetteville. (1995 Code, § 9-1101)

9-1002. Set back lines. All portable stands shall be set back from the property lines no less than five (5) feet but in no event shall the stand constitute an obstruction to vision at street intersections as set out in the zoning ordinance, art. IV, paragraph 6. (1995 Code, § 9-1102)

9-1003. Permits. Prior to any portable stand being set a permit shall be obtained from the building official for the placement of the stand. No permit fee shall be charged if the items displayed, sold or given away are in the general line of the principal business on the lot, otherwise an annual fee of two hundred dollars (\$200.00) shall be charged for the permit provided the permit is obtained prior to the placement of the stand and an annual fee of four hundred dollars (\$400.00) provided the permit is obtained after the placement of the stand. A permit shall only be valid for one (1) year from the date of issuance and no portable stand shall be located in any one (1) location for more than sixty (60) days during said one (1) year period. In the event that a permit holder chooses to locate said stand in a new location, permit holder shall obtain a new permit at no charge if within original one (1) year period. The stand shall be moved from the location at the expiration of the sixty (60) day period.

Non-profit groups and vendors with portable stands at non-profit and/or civic events shall be exempt from this section. (1995 Code, § 9-1103)

9-1004. Signs. Any signs in connection with said portable stand shall be located on the stands or otherwise be in full conformity with other sign ordinances. (1995 Code, § 9-1104)

9-1005. Merchandise. Except in the C-1 (Central Business) Zone, merchandise shall not be displayed or located within five (5) feet of the street right-of-way. (1995 Code, § 9-1105)

9-1006. Existing portable stands. All portable stands now located in violation of this chapter shall be moved or a permit obtained within thirty (30) days after being notified to do so by the building official. (1995 Code, § 9-1106)

9-1007. Violations and penalty. Any violations of this chapter shall be a misdemeanor and each day of any violation shall constitute a separate offense. (1995 Code, § 9-1107)

CHAPTER 11

CABLE TELEVISION

SECTION

9-1101. To be furnished under franchise.

9-1101. To be furnished under franchise. Cable television service shall be furnished to the City of Fayetteville and its inhabitants by Ord. #2005-10, Aug. 2005 under franchise granted by the board of mayor and aldermen of the City of Fayetteville, Tennessee, or by the state.¹ (1995 Code, § 9-1201, modified)

¹Complete details relating to the cable television franchise agreement are available in the office of the city clerk.

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

1. IN GENERAL.
2. DOGS.
3. ORDINANCE REGULATING DANGEROUS 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. Rabies control.
- 10-107. Appointment of a rabies control officer.
- 10-108. Impoundment and disposition of animals.
- 10-109. Disposition of proceeds of sale.

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 or goats, or any chickens, ducks, geese, turkeys, or other domestic fowl, cattle or livestock, or cats to knowingly or negligently permit any of them to run at large in any street, alley, or unenclosed lot within the corporate limits. (1995 Code, § 10-101)

10-102. Keeping near a residence or business restricted. No person shall keep any animal or fowl, except dogs, cats and other domesticated animals enumerated in the preceding section to come within one thousand feet (1,000') of any residence, place of business, or public street without a permit from the health officer. The health officer shall issue a permit only when in his sound judgment the keeping of such an animal in a yard or building under the circumstances as set forth in the application for the permit will not injuriously affect the public health. (1995 Code, § 10-102, modified)

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

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. (1995 Code, § 10-103)

10-104. Adequate food, water, and shelter, etc., to be provided. No animal or fowl of any kind 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. (1995 Code, § 10-104)

10-105. Keeping in such manner as to become a nuisance prohibited. No animal or fowl shall be kept in such a place or condition as to become a nuisance because of either noise, odor, contagious disease, or other reason. (1995 Code, § 10-105)

10-106. Rabies control. The rabies control program shall be under the control and supervision of the health officer. (1995 Code, § 103-107, modified)

10-107. Appointment of a rabies control officer. A rabies control officer and such deputies or other persons as may be required shall be employed to take and impound all animals and fowl running at large in violation of any provision of this code and to manage the animal shelter. (1995 Code, § 10-108, modified)

10-108. Impoundment and disposition of animals. It shall be the duty of the rabies control officer of the city to take up and impound all animals and fowl running at large in violation of any provision of this code. Upon the impounding of any such animal or fowl, the rabies control officer shall notify the owner thereof, if known. If such owner does not redeem his animal or fowl from the pound, show evidence of rabies vaccination, and the proper license, if required, and pay the impoundment fee as hereinafter stated and maintenance charge of ten dollars (\$10.00) per day within five (5) days, the animal or fowl shall be disposed of by sale, or if no purchasers, by gift, under terms imposed by the rabies control officer, or by humane destruction. In case of the impoundment of any animal or fowl of unknown ownership, such animal shall be kept for five (5) days and if not redeemed by the owner by showing evidence of rabies vaccination, and the proper license, if required, paying the impoundment fee as hereinafter stated and maintenance charge of ten dollars (\$10.00) per day, said animal or fowl shall be disposed of by sale, or if no purchasers, by gift, under terms imposed by the rabies control officer, or by humane destruction. When in the opinion of the rabies control officer any animal or fowl is diseased and there is danger of this disease being transmitted to other animals, fowls, or persons, then the rabies control officer may

immediately destroy said animal. (1995 Code, § 10-109, as amended by Ord. #2014-11, Aug. 2014)

10-109. Disposition of proceeds of sale. All sums arising from the sale or collection of an adoption fee of any animal or fowl as hereinbefore provided, after paying the impoundment fee, maintenance charge, and cost of making the sale, shall be paid to the owner, if known. If the owner is not known, the unclaimed remainder shall be turned over to the city clerk who shall hold such sums subject to the claim of the proper owner. All such moneys remaining unclaimed in the hands of the city clerk for a period of six (6) months shall be forfeited to the use of the city. (1995 Code, § 10-110, modified)

CHAPTER 2

DOGS

SECTION

- 10-201. Definitions.
- 10-202. Enforcement.
- 10-203. Animals becoming nuisance; vicious animals.
- 10-204. Impoundment.
- 10-205. Confinement of certain dogs and other animals.
- 10-206. Rabies control.
- 10-207. Reports of bite cases.
- 10-208. Responsibilities of veterinarians.
- 10-209. Investigation.
- 10-210. Interference.
- 10-211. Veterinarians.

10-201. Definitions. As used in this chapter the following terms shall mean:

(1) "Animal pound." Any premises designated by action of the city for the purpose of impounding and caring for all animals found running at large in violation of this chapter.

(2) "At large." Any animal shall be deemed to be at large when he is off the property of his owner and not under restraint of a competent person.

(3) "Exposed to rabies." An animal has been exposed to rabies within the meaning of this chapter if it has been bitten by or been exposed to, any animal known to have been infected with rabies

(4) "Kennel." Any person, group of persons, or corporation engaged in breeding, buying, selling, or boarding dogs.

(5) "Nuisance." A dog shall be considered a "nuisance" if it barks, howls, bites, attempts to bite, chases pedestrians or moving vehicles, or rummages through receptacles for trash and garbage.

(6) "Owner." Any person, group of persons, or corporation owning, keeping or harboring animals.

(7) "Rabies control officer." The person or persons employed or designated by the city as its enforcement officer.

(8) "Restraint." A dog is under restraint within the meaning of this chapter if he is:

(a) Secured by a leash under the control of a person or

(b) On or within a vehicle being driven or parked on the streets.

(9) "Spayed female." Any bitch which has been operated upon to prevent conception. (1995 Code, § 10-201)

10-202. Enforcement. The provisions of this chapter shall be enforced by the rabies control officer. (1995 Code, § 10-202, modified)

10-203. Animals becoming nuisance; vicious animals. Whenever in the judgment of the rabies control officer a dog is allowed by the owner to become a nuisance, such animal shall be impounded with the concurrence of the judge and disposed of as provided under § 10-109 hereof.

Whenever any dog becomes vicious as against persons or other animals, in the judgment of the rabies control officer, the owner thereof shall keep the same adequately muzzled at all times when not adequately isolated and confined by the owner. (1995 Code, § 10-203)

10-204. Impoundment. (1) Dogs running at large may be impounded by the rabies control officer or he, at his discretion, may cite the owners of such dogs, if known, to appear in court to answer charges of violation of this chapter. In deciding whether to impound the dogs or cite the owners the rabies control officer shall take into consideration the area problem, if any, whether or not the dog has previously been reported as a nuisance, and the rabies season.

(2) Immediately upon impounding dogs, the rabies control officer shall make every reasonable effort to notify the owners of such dogs so impounded. (1995 Code, § 10-204, modified)

10-205. Confinement of certain dogs and other animals. (1) The owner shall confine within a building or secure enclosure every fierce, dangerous, or vicious dog, and not take such dog out of such building or secure enclosure unless such dog is securely muzzled.

(2) Every female dog in heat shall be kept confined in a building or secure enclosure, or in a veterinary hospital or boarding kennel, in such manner that such female dog cannot come in contact with another dog, except for intentional breeding purposes.

(3) Any animal described in the foregoing subsections of § 10-205 of this chapter, found at large shall be impounded by the rabies control officer.

(4) Any dog impounded for being a public nuisance may not be redeemed unless such redemption is authorized by any court having jurisdiction.

(5) When in the judgment of the rabies control officer an animal should be destroyed for humane reasons, such animal may not be redeemed. (1995 Code, § 10-205)

10-206. Rabies control. (1) Every animal or rodent which bites a person shall be promptly reported to the rabies control officer, and shall thereupon be securely quarantined at the direction of the rabies control officer for a period of ten (10) days and shall not be released from such quarantine except by written permission of the rabies control officer. At the discretion of the rabies control officer, such quarantine may be on the premises of the owner,

at the shelter designated as the city animal shelter, or at the owner's option and expense, in a veterinary hospital of his choice. In the case of stray animals, or in the case of animals whose ownership is not known, such quarantine shall be at the shelter designated as the animal shelter.

(2) The owner, upon demand by the rabies control officer, shall forthwith surrender any animal which has bitten a human, or which is suspected as having been exposed to rabies, for supervised quarantine, the expense of which shall be borne by the owner. Said animal may be reclaimed by the owner if it is adjudged free of rabies, upon payment of the required fees and upon compliance with the licensing provisions set forth in this chapter.

(3) When rabies has been diagnosed in an animal under quarantine or rabies suspected by a licensed veterinarian, and the animal dies while under such observation, the rabies control officer shall immediately send the head of such animal to the state health department for pathological examination, and shall notify the proper public health officer of the city of the diagnosis.

(4) When one or both reports indicate a positive diagnosis of rabies, the rabies control officer may recommend an area-wide quarantine for a period of sixty (60) days, and upon the invoking of such quarantine, no pet animal shall be taken into the streets or permitted to be in the streets during such period of quarantine. During such quarantine, no animal may be taken or shipped from the city without permission of the rabies control officer.

During this quarantine period and as long afterward as he decides it is necessary to prevent the spread of rabies, the rabies control officer shall require that all dogs, three (3) months of age and older, shall be vaccinated against rabies with a canine rabies vaccine approved by the biologics control section of the U. S. Department of Agriculture. The types of approved canine anti-rabies vaccine to be used and the recognized duration of immunity for each shall be established by the rabies control officer. All vaccinated dogs shall be restricted (leashing or confinement on enclosed premises) for thirty (30) days after vaccination. During the quarantine period, the rabies control officer shall be empowered to provide for a program of mass immunization by the establishment of temporary emergency canine rabies vaccination clinics strategically located throughout the area of the health jurisdiction.

(5) Dogs bitten by a known rabid animal shall immediately be destroyed or if the owner is not willing to destroy the exposed animal, strict isolation of the animal in a kennel for six (6) months shall be enforced. If the dog has been previously vaccinated, within time limits established by the rabies control officer based on the kind of vaccine used, revaccination and restraint (by leashing and confinement) for thirty (30) days shall be carried out.

(6) In the event there are additional cases of rabies occurring during the period of the quarantine, such period of the quarantine may be extended for an additional six (6) months.

(7) No person shall remove from the city limits, any rabid animal, any animal suspected of having been exposed to rabies, or any animal which has

bitten a man, except as herein provided, without written permission from the rabies control officer.

(8) The carcass of any dead animal exposed to rabies shall upon demand be surrendered to the rabies control officer.

(9) The rabies control officer shall direct the disposition of any animal found to be infected with rabies.

(10) No person shall fail or refuse to surrender any animal for quarantine or destruction as required herein when demand is made therefor by the rabies control officer.

(11) That each and every provision of this chapter relative to rabies control shall be applicable to all animals and rodents and the owners thereof in the City of Fayetteville. (1995 Code, § 10-206, modified)

10-207. Reports of bite cases. It shall be the duty of every physician or other medical practitioner to report to the rabies control officer the names and addresses of persons treated for bites inflicted by animals, together with such other information as will be helpful for rabies control. (1995 Code, § 10-207)

10-208. Responsibilities of veterinarians. It shall be the duty of every licensed veterinarian to report to the rabies control officer any animal considered by him to be a rabies suspect. (1995 Code, § 10-208)

10-209. Investigation. For the purpose of discharging the duties imposed by this chapter and to enforce its provisions, the rabies control officer or any police officer is empowered to enter upon any premises upon which a dog is kept or harbored and to demand the exhibition by the owner of such dog and the license for such dog. It is further provided that the rabies control officer may enter the premises where any animal is kept in a reportedly cruel or inhumane manner and demand to examine such animal and to take possession of such animal, when in his opinion, it is required to insure humane treatment to such animal. (1995 Code, § 10-209)

10-210. Interference. No person shall interfere with, hinder, or molest the rabies control officer in the performance of any duty imposed by this chapter or seek to release any animal in the custody of the rabies control officer except as herein provided. (1995 Code, § 10-210)

10-211. Veterinarians. No veterinarian shall administer a rabies vaccination to the dog of any owner whose residence is within the corporate limits of Fayetteville without requiring proof of a current year's license for the dog. (1995 Code, § 10-211)

CHAPTER 3

ORDINANCE REGULATING DANGEROUS DOGS

SECTION

- 10-301. Authorization.
- 10-302. Purpose and intent.
- 10-303. Definitions.
- 10-304. Procedure for declaring a dog dangerous.
- 10-305. Notification of dangerous dog declaration.
- 10-306. Hearing on dangerous dog declaration.
- 10-307. Appeal from dangerous dog declaration.
- 10-308. Keeping of dangerous dogs.
- 10-309. Permit and tag required for a dangerous dog.
- 10-310. Notification of intent to impound.
- 10-311. Immediate impoundment.
- 10-312. Impoundment hearing.
- 10-313. Destruction.
- 10-314. Appeal from order of humane destruction.
- 10-315. Change of ownership.
- 10-316. Continuation of dangerous dog declaration.

10-301. Authorization. This ordinance is enacted pursuant to the general police power, the authorities granted to cities and towns by the Tennessee State Constitution. (1995 Code, § 10-301)

10-302. Purpose and intent. The purposes of this ordinance are to promote the public health, safety, and general welfare of the citizens of the City of Fayetteville. It is intended to be applicable to "dangerous" dogs, as defined herein, by ensuring responsible handling by their owners through registration, confinement, and liability insurance. (1995 Code, § 10-302, as amended by Ord. #2014-10, Aug. 2014)

10-303. Definitions. When used in this ordinance, the following words, terms, and phrases, and their derivations shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) "Animal control officer" means any person employed or appointed by the city who is authorized to investigate and enforce violations relating to animal control or cruelty under the provision of this ordinance.
- (2) "At large" means that a dog is not under the direct control of the owner.
- (3) "Dangerous dog" means any dog that, because of its aggressive nature, training or characteristic behavior, presents a risk of serious physical

harm or death to human beings, or would constitute a danger to human life, physical well-being, or property if not kept under the direct control of the owner. This definition shall not apply to dogs utilized by law enforcement officers in the performance of their duties. The term "dangerous dog" includes any dog that according to the records of either the city, animal shelter, the city department of animal control, or any law enforcement agency:

(a) Has aggressively bitten, attacked, endangered, or inflicted severe injury on a human being on public or private property, or when unprovoked, has chased or approached a person upon the street, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack, provided that such actions are attested to in a sworn statement by one or more persons and dutifully investigated by any of the above referenced authorities;

(b) Has more than once severely injured or killed a domestic animal while off the owner's property; or

(c) Has been used primarily or in part for the purpose of dog fighting, or is a dog trained for dog fighting.

(4) "Direct control" means immediate, continuous physical control of a dog such as by means of a leash, cord, secure fence, or chain of such strength to refrain the dog and controlled by a person capable of restraint within a vehicle. If the controlling person is at all times fully and clearly within unobstructed sight and hearing of the dog, voice control shall be considered direct control when the dog is actually participating in training or in an official showing, obedience, or field event. Direct control shall not be required of dogs actually participating in a legal sport in an authorized area or to government police dogs.

(5) "Director" means the animal control officer.

(6) "Impoundment" means the taking or picking up and confining of an animal by any police officer, animal control officer or any other public officer under the provisions of this ordinance.

(7) "Muzzle" means a device constructed of strong soft material or of metal, designed to fasten over the mouth of an animal to prevent the animal from biting any person or other animal.

(8) "Owner" means any person, partnership, corporation or other legal entity owning, harboring or keeping any animal, or in the case of a person under the age of eighteen (18), that person's parent or legal guardian. An animal shall be deemed to be harbored if is fed or sheltered for three (3) or more consecutive days. The definition shall not apply to any veterinary clinic or boarding kennel.

(9) "Sanitary condition" means a condition of good order and cleanliness to minimize the possibility of disease transmission.

(10) "Under restraint" means that an animal is secured by leash, led under the control of a person physically capable of restraining the animal and obedient to that person's commands, or securely enclosed within the real

property limits of the owner's premises. (1995 Code, § 10-303, as amended by Ord. #2014-10, Aug. 2014)

10-304. Procedure for declaring a dog dangerous. (1) An animal control officer or any adult person may request under oath that a dog be classified as dangerous as defined in § 10-303(3) by submitting a sworn, written complaint on a form approved by the animal control officer. Upon receipt of such complaint, the director shall notify the owner of the dog that a complaint has been filed and that an investigation into the allegations as set forth in the complaint will be conducted.

(2) At the conclusion of an investigation, the director may:

(a) Determine that the dog is not dangerous, and, if the dog is impounded, waive any impoundment fees incurred and release the dog to its owner; or

(b) Determine that the dog is dangerous and order the owner to comply with the requirements for keeping dangerous dogs set forth in § 10-308, and if the dog is impounded, release the dog to its owner after the owner has paid all fees incurred for the impoundment. If all impoundment fees have not been paid within ten (10) business days after a final determination that a dog is dangerous, the director may cause the dog to be humanely destroyed. (1995 Code, § 10-304)

10-305. Notification of dangerous dog declaration. (1) Within five (5) business days after the declaring a dog dangerous, the director shall notify the owner by certified mail of the dog's designation as a dangerous dog and any specific restrictions and conditions for keeping the dog, as set forth in § 10-308 of this ordinance. The animal control officer also shall notify the city administrator and the police chief of the designation of any dog as a dangerous dog and specify any particular requirements or conditions placed upon the dog owner.

(2) The notice shall inform the dog owner that he may request, in writing, a hearing to contest the director's finding and designation within five (5) business days after delivery of the dangerous dog declaration notice.

(3) If the director cannot with due diligence locate the owner of a dog that has been seized pursuant to this ordinance, the director shall cause the dog to be impounded for not less than five (5) business days. If after five (5) days, the owner fails to claim the dog, the director may cause the dog to be humanely destroyed. (1995 Code, § 10-305)

10-306. Hearing on dangerous dog declaration. (1) The city administrator shall hold a hearing within fifteen (15) business days after receiving the dog owner's written request for such a hearing. The city administrator shall provide notice of the date, time and location of the hearing to the dog owner by certified mail and to the complainant by regular mail.

(2) At a hearing, all interested persons shall be given the opportunity to present evidence on the issue of the dog's dangerousness. Criteria to be considered in a hearing required by this section shall be included but not to be limited to the following:

- (a) Provocation,
- (b) Severity of attack or injury to a person or domestic animal,
- (c) Previous aggressive history of the dog,
- (d) Observable behavior of the dog,
- (e) Site and circumstances of the incident, and,
- (f) Statements from interested parties.

(3) A determination at a hearing that the dog is in fact a dangerous dog as defined in § 10-303(3) shall subject the dog and its owner to the provisions of this ordinance.

(4) Failure of the dog owner to request a hearing shall result in the dog being finally declared a dangerous dog and shall subject the dog and its owner to the provisions of this ordinance. (1995 Code, § 10-306)

10-307. Appeal from dangerous dog declaration. If the city administrator determines that a dog is dangerous at the conclusion of a hearing conducted under § 10-306, that decision shall be final unless the dog owner applies to a court of competent jurisdiction for any remedies that may be available within ten (10) days after receiving notice that the dog has been finally declared dangerous. The appeal must be a trial de novo and shall be civil proceeding for the purpose of affirming or reversing the city administrator's determination of dangerousness. (1995 Code, § 10-307)

10-308. Keeping of dangerous dogs. The keeping of a dangerous dog as defined in § 10-303(3) shall be subject to the following requirements:

(1) **Leash.** No person having charge, custody, control or possession of a dangerous dog shall allow the dog to exit its kennel, pen or other proper enclosure unless such dog is securely attached to a leash not more than four feet (4') in length. No such person shall permit a dangerous dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person capable of controlling the dog is in physical control of the leash.

(2) **Muzzle.** It shall be unlawful for any owner or keeper of a dangerous dog to allow the dog to be outside of its proper enclosure unless it is necessary for the dog to receive veterinary care or exercise. In such cases, the dog shall wear a properly fitted muzzle to prevent it from biting humans or other animals. Such muzzle shall not interfere with the dog's breathing or vision.

(3) **Confinement.** Except when leashed and muzzled as provided in this section, a dangerous dog shall be securely confined indoors or confined in a locked pen or other secure enclosure that is suitable to prevent the entry of children and is designed to prevent the dog from escaping. The enclosure shall

include shelter and protection from the elements and shall provide adequate exercise room, light and ventilation. The enclosed structure shall be kept in a clean and sanitary condition and shall meet the following requirements:

(a) The structure must have secure sides and a secure top, or all sides must be at least eight feet (8') high;

(b) The structure must have a bottom permanently attached to the sides or the sides must be embedded not less than one foot (1') into the ground; and

(c) The structure must be of such material and closed in such a manner that the dog cannot exit the enclosure on its own.

(4) Indoor confinement. No dangerous dog shall be kept on a porch, patio or any part of a house structure that would allow the dog to exit such building on its own volition. In addition, no such dog shall be kept in a house or structure when the windows or screen doors are the only obstacle preventing the dog from exiting the structure.

(5) Signs. All owners, keepers or harborers of dangerous dogs shall display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Dog."

(6) Liability insurance, surety bond. The owner of dangerous dog shall present to the animal control officer proof that he/she has procured liability insurance or a surety bond in the amount of not less than one hundred thousand dollars (\$100,000.00) covering any damages or injury that may be caused by such dangerous dog. The policy shall contain a provision requiring that the city be notified immediately by the agent issuing the policy in the event that the insurance policy is cancelled, terminated or expires. The liability insurance or surety bond shall be obtained prior to the issuing of a permit to keep a dangerous dog. The dog owner shall sign a statement attesting that he shall maintain and not voluntarily cancel the liability insurance policy during the twelve (12) month period for which a permit is sought, unless he ceases to own or keep the dog prior to the expiration date of the permit period. In the event that the owner proves to the satisfaction of the animal control officer that insurance is not available, he may pay a non-refundable cash fee in the amount of one thousand dollars (\$1,000.00) to the city.

(7) Animals born of registered dogs. All offspring born of dangerous dogs registered with the animal control officer also must be registered with the department within six (6) weeks of birth.

(8) Notification of escape. The owner or keeper of a dangerous dog shall notify the animal control officer immediately if such dog escapes from its enclosure or restraint and is at large. Such immediate notification shall also be required if the dog bites or attacks a person or domestic animal.

(9) Failure to comply. It shall be unlawful and a misdemeanor for any owner of a dangerous dog registered with the animal control officer to fail to comply with the requirements and conditions set forth in this section. Any dog found to be in violation of this section shall be subject to immediate seizure and

impoundment. In addition, failure to comply with the requirements and conditions set forth in this ordinance shall result in the revocation of the dog's license and the permit providing for the keeping of such animal. (1995 Code, § 10-308)

10-309. Permit and tag required for a dangerous dog. (1) The owner of a dangerous dog shall, within three (3) business days after the classification of the dog as a dangerous or upon acquisition of such a dog, obtain an annual permit from the animal control officer to harbor the dog. The fee for such permit shall be one hundred dollars (\$100.00) per year.

This fee shall include the tag and inspection fee for inspection of the structure for confinement of the animal.

(2) Proof of current rabies vaccination shall be presented in order to obtain the permit.

(3) At the time the permit is issued, a red circular tag shall be issued to the owner of the dangerous dog. The tag shall be worn at all times by the dog to clearly and easily identify it as a dangerous dog.

(4) The permit for maintaining a dangerous dog shall be presented to an animal control officer upon demand. (1995 Code, § 10-309)

10-310. Notification of intent to impound. (1) When the animal control officer or his designee intends to impound a dog declared to be dangerous for violation of § 10-308 he shall notify the owner or custodian of the dog, by certified mail, of the intended impoundment at least five (5) business days prior to the intended impoundment, except as provided in § 10-311.

(2) The notice of intent to impound shall inform the owner or custodian of the dog that he may request in writing, within five (5) business days prior to the intended impoundment, a hearing to contest the intended impoundment and finding of violation.

(3) Upon request by the owner or custodian of the dog for a hearing pursuant to subsection (2), a hearing shall be held within ten (10) business days after the request for a hearing. Notice of the date, time and location of the hearing shall be provided by certified mail to the dog's owner or custodian requesting such hearing.

(4) If the owner or custodian requests a hearing pursuant to subsection (b), no impoundment shall take place until conclusion of the hearing, except as authorized in § 10-311. (1995 Code, § 10-311)

10-311. Immediate impoundment. (1) A dog declared to be dangerous may be immediately impounded without a pre-impoundment hearing when the animal control officer or his designee determines such immediate impoundment is necessary for the protection of public health or safety. Such immediate impoundment may be ordered for violation of § 10-308 or when the dog bites a person or domestic animal.

(2) The owner or custodian of the dog immediately impounded pursuant to subsection (1) shall be notified of the impoundment by certified mail within five (5) business days after the dog's impoundment

(3) The notice of impoundment shall inform the owner or custodian of the dog that he may request, in writing, a hearing to contest the impoundment within five (5) business days after the mailing of the notice of impoundment.

(4) Upon request by the owner or custodian of the dog for a hearing under subsection (3), a hearing shall be held within ten (10) business days after such request. Notice of the date, time and location of the hearing shall be provided by certified mail to the dog owner requesting the hearing. (1995 Code, § 10-312)

10-312. Impoundment hearing. (1) If after a hearing on impoundment, the director or his designee finds no violation of § 10-308, or that the dog has not bitten an individual, the dog shall be returned to its owner or custodian if already impounded, or shall not be impounded as intended.

(2) Incident to the findings and conclusions made at the impoundment hearing, the director or his designee may impose reasonable restrictions and conditions for the maintenance of the dog to ensure the health and safety of the public and the animal. Such conditions may include, but shall not be limited to:

(a) Posting of bond or other proof of ability to respond in damages;

(b) Specific requirements as to size, construction and design of a kennel in which to house the dog;

(c) Requirements as to type and method of restraint and/or muzzling of the dog;

(d) Photo identification or permanent marking of the dog for purposes of identification; and

(e) Payment of reasonable fees to recover the costs incurred by the animal control officer in ensuring compliance with this ordinance. (1995 Code, § 10-313)

10-314. Destruction. (1) The animal control officer or his designee may order the destruction of a dog that it determines to be extremely dangerous to public health or safety, a dog that has made an extremely vicious attack upon an individual, or a dog declared dangerous whose owner is unable or unwilling to adequately restrain it.

(2) The director or his designee shall give written notice by certified mail of his intention to destroy such dog to the owner or custodian of the dog, who may request in writing, within ten (10) business days after delivery of such notice, a hearing to contest the intended destruction.

(3) If no hearing is requested pursuant to subsection (2), the dog shall be destroyed pursuant to applicable provisions of law.

(4) If a hearing is requested pursuant to subsection (2), such hearing shall be held within ten (10) business days after the request; and the dog shall not be destroyed prior to the conclusion of the hearing.

(5) The dog owner shall be responsible for payment of all boarding costs and other fees as may be required for the city to humanely and safely keep the animal during any legal proceeding. (1995 Code, § 10-314)

10-314. Appeal from order of humane destruction. If the director or his designee orders a dangerous dog to be humanely destroyed pursuant to § 10-313, that decision shall be final unless the dog owner applies to a court of competent jurisdiction for any remedies that may be available within ten (10) days after receiving notice of the destruction order. If an appeal is timely filed, the director shall suspend the destruction order pending the final determination of the court. The appeal hearing must be a trial de novo and shall be a civil proceeding for the purpose of affirming or reversing the director's destruction order. (1995 Code, § 10-315)

10-315. Change of ownership. (1) Any owner of a dangerous dog who sells or otherwise transfers ownership, custody or residence of the dog shall, within ten (10) business days after such change of ownership or residence, provide written notification to the animal control officer of the name, address and telephone number of the new owner. It also shall be the responsibility of the person transferring ownership or custody of the dog to provide written notification of the dog's classification as dangerous to the person receiving the dog. The previous owner shall furnish a copy of such notification to the animal control officer along with written acknowledgment by the new owner of his receipt of such notification. The animal control officer or his designee shall notify the city administrator and police chief of any changes of ownership, custody or residence of the dog within three (3) business days after receiving the required information from the previous dog owner.

(2) Any person receiving a dog classified as dangerous must obtain the required permit, tag and enclosure prior to acquisition of the dog. The new owner shall comply fully with the provision of this ordinance pertaining to obtaining liability insurance, payment of fees, and maintenance, control and ownership of a dangerous dog. (1995 Code, § 10-316)

10-316. Continuation of dangerous dog declaration. Any dog that has been declared dangerous by any agency or department of this city, another municipality, county, or state shall be subject to the provisions of this ordinance for the remainder of its life. The person owning or having custody of any dog designated as a dangerous dog by any municipality, county, or state government shall notify the animal control officer of the dog's address and conditions of maintenance within ten (10) days of moving the animal into the City of Fayetteville. The restrictions and conditions of maintenance of any dog declared

dangerous by this city, another municipality, county, or state shall remain in force while the dog remains in the city. (1995 Code, § 10-317)

TITLE 11

MUNICIPAL OFFENSES¹

CHAPTER

1. ALCOHOL.
2. OFFENSES AGAINST THE PEACE AND QUIET.
3. FIREARMS, WEAPONS AND MISSILES.
4. TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC.
5. MISCELLANEOUS.
6. CURFEW REGULATIONS.
7. LITTERING.

CHAPTER 1

ALCOHOL²

SECTION

11-101. Drinking beer, etc., on streets, etc.

11-101. Drinking beer, etc., on streets, etc. It shall be unlawful for any person to drink or consume, or have an open container, can or bottle of beer in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground or other public place unless the place has a permit and license for on premises consumption. (1995 Code, § 11-101, modified)

¹Municipal code references

- Animals and fowls: title 10.
- Fireworks and explosives: title 7.
- Residential and utilities: title 12.
- Traffic offenses: title 15.
- Streets and sidewalks (non-traffic): title 16.

²Municipal code reference

- Sale of alcoholic beverages, including beer: title 8.

State law reference

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

CHAPTER 2

OFFENSES AGAINST THE PEACE AND QUIET

SECTION

11-201. Disturbing the peace.

11-202. Anti-noise regulations.

11-201. 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. (1995 Code, § 11-401)

11-202. 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) 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.

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

(c) 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.

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

(e) 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.

(f) 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.

(g) 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.

(h) 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.

(i) 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.

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

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

(a) Municipal vehicles. Any vehicle of the municipality 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 municipality, 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 advertising functions sponsored by nonprofit organizations. However, no such use shall be made until a permit therefor is secured from the city clerk. 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.

(3) Loud sound amplification systems in vehicles.

(a) No person operating or occupying a motor vehicle on a street, highway, alley, parking lot, or driveway, whether public or private property, shall operate or permit the operation of any sound amplification system from within the vehicle so that the sound is plainly audible at a distance of fifty (50) or more feet from the vehicle.

(b) "Sound amplification system" means any radio, tape player, compact disc player, loud speaker, or other electronic device used for the amplification of sound.

(c) "Plainly audible" means any sound produced by a sound amplification system from within the vehicle, which clearly can be heard at a distance of fifty feet (50') or more. Measurement standards shall be by the auditory senses, based on direct line of sight. Words or phrases need not be discernible and bass reverberations are included. The motor vehicle may be stopped, standing, parked or moving on a street, highway, alley, parking lot, or driveway on either public or private property.

(d) It is an affirmative defense to a charge under this subsection that the operator was not otherwise prohibited by law from operating the sound amplification system, and that any of the following apply:

(i) The system was being operated to request medical or vehicular assistance or to warn of a hazardous road condition;

(ii) The vehicle was an emergency or public safety vehicle;

(iii) The vehicle was owned and operated by the City of Fayetteville or Fayetteville Public Utilities; or

(iv) The system or vehicle was used in authorized public activities, such as parades, fireworks, sporting events, musical productions, and other activities which have the approval of the board of mayor and aldermen or a department of the city authorized to grant such approval.

(v) The system was used in a public auction of real or personal property held by a licensed auctioneer. (1995 Code, § 11-402, modified)

CHAPTER 3**FIREARMS, WEAPONS AND MISSILES****SECTION**

11-301. Air rifles, etc.

11-302. Discharging firearms.

11-301. Air rifles, etc. It shall be unlawful for any person in the municipality to discharge any air gun, air pistol, air rifle, "BB" gun, or sling shot capable of discharging a metal bullet or pellet, whether propelled by spring, compressed air, expanding gas, explosive, or other force-producing means or method. (1995 Code, § 11-601)

11-302. Discharging firearms. No unauthorized person shall discharge a firearm within the municipality except as hereinafter stated. Firearms may be discharged on the public shooting range operated by the City of Fayetteville on the land owned by the city and located south and east of the recreational building. No one shall enter upon the designated range grounds or fire a weapon thereon without a permit issued by the department of recreation.

Firearms, specifically and limited only to shotguns, may be discharged on the certified trap and skeet range located on the property owned by Riverside Christian Academy. Certification for the said trap and skeet range shall be provided by the American Trap Association. (1995 Code, § 11-603)

CHAPTER 4

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

11-401. Trespassing.

11-402. Trespassing on public school grounds, parks, or recreational areas.

11-403. Interference with traffic.

11-401. Trespassing. It shall be unlawful for any person to enter or remain in or upon the dwelling house, buildings, or improved or enclosed land of another without right, after having been forbidden so to do by the person who has the lawful control of said premises.

As used in this section a person may be "forbidden so to do" either verbally or by notice posted or exhibited on said premises. (1995 Code, § 11-701)

11-402. Trespassing on public school grounds, parks, or recreational areas. No person, except employees of the state, county, or local governments while on duty, shall go or remain on public school grounds, public parks, or public recreation areas between the hours of 11:00 P.M. and 5:00 o'clock A.M. unless attending an event scheduled by the school or recreational board authorities. (1995 Code, § 11-703)

11-403. Interference with traffic. It shall be unlawful for any person to stand, sit, or engage in any activity whatever on any public street, sidewalk, bridge, or public ground in such a manner as to prevent, obstruct, or interfere unreasonably with the free passage of pedestrian or vehicular traffic thereon. (1995 Code, § 11-705)

CHAPTER 5

MISCELLANEOUS

SECTION

11-501. Posting notices, etc.

11-502. Storage of propane tanks.

11-503. Prohibited sexual activity in establishments offering alcoholic beverages.

11-504. Uncovering public water and sewer pipes.

11-505. Ephedrine control.

11-501. Posting notices, etc. No person shall fasten, in any way, any show-card, poster, or other advertising device upon any public or private property unless legally authorized to do so. (1995 Code, § 11-803)

11-502. Storage of propane tanks. It shall be unlawful for any person, firm or corporation to store liquid propane gas containers on any outside storage lot unless the same is enclosed by a six foot (6') chain-link fence and gate which is kept securely locked so as to prevent unauthorized entry, and no such tanks shall be stored in the city except in an industrial or C-2 commercial zone. (1995 Code, § 11-804)

11-503. Prohibited sexual activity in establishments offering alcoholic beverages. (1) It shall be unlawful for any person to appear in any place or establishment or the premises thereof wherein alcoholic beverages as defined in §§ 8-102(1) and 8-201 of the Fayetteville Municipal Code are offered for sale, and to publicly engage in the actual or simulated displaying of the pubic hair, anus, buttocks, vulva, genitals or breasts below the top of the areola of any person.

(2) It shall be unlawful for any person to permit or allow another to commit any of the acts specified in this section on or about the premises which are owned, managed or operated by such person, or in which such person is employed. (1995 Code, § 11-805)

11-504. Uncovering public water and sewer pipes. It shall be unlawful for any person to dig up, uncover, disturb, or damage any public water or sewer pipe. It shall also be unlawful for any person to fail to cover with suitable material and within twenty-four (24) hours any public water or sewer pipe which he has uncovered or caused to be uncovered upon being notified so to do by the chief of police. (1995 Code, § 11-806)

11-505. Ephedrine control. (1) Definitions. As used in this section, the following words and/or phrases shall have the following meanings as set forth herein.

(a) "Ephedrine." All forms of ephedrine, pseudoephedrine, ephedrine hydrochloride, pseudoephedrine hydrochloride, phenylpropanolamine and all other combinations of these chemicals.

(b) "Ephedrine produce." Any product that contains ephedrine, its salts, isomers, or salts of isomers, as its sole active ingredient or in combination with less than therapeutically significant quantities of other active ingredients.

(c) "Package." Any number of pills, tablets, capsules, caplets or individual units of a substance held within a container intended for sale.

(d) "Person." Any individual, corporation, partnership, trust, limited liability company, firm, association or other entity selling an ephedrine product to customers.

(e) "Sell." To knowingly furnish, give away, exchange, transfer, deliver, surrender or supply, whether for monetary gain or not.

(2) Restrictions on public access to ephedrine products. It shall be illegal to sell, deliver, or distribute ephedrine, pseudoephedrine, their salts, their optical isomers or salts of their optical isomers, to any person unless that person has a valid prescription to obtain the same from a physician or other healthcare professional licensed to issue prescriptions to be filled by a licensed pharmacist in the State of Tennessee.

(3) Exceptions. The prohibition contained in subsection (2) shall not apply to the sale of animal feed containing ephedrine or dietary supplement products containing naturally occurring or herbal Ephedra and extract of Ephedra.

(4) Reporting theft of ephedrine products. (a) Any person who sells ephedrine products and who discovers a theft, disappearance or other loss of an ephedrine product shall report the theft, disappearance, or loss in writing to the Fayetteville Police Department within twenty-four (24) hours of such discovery.

(b) Any person who sells ephedrine products shall report to the Fayetteville Police Department any difference between the quantities of ephedrine products shipped and the quantity of ephedrine products received within twenty-four (24) hours of discovery.

(5) Penalty and injunctive relief. (a) Each violation of this section shall be considered a separate offense.

(b) The city administrator may institute an action for injunctive relief to enforce the provisions of this section.

(c) Every act or omission constituting a violation of any of the provisions of this section by any agent or employee of any person shall be deemed and held to be the act of such person, and said person shall be punishable in the same manner as if said act or omission had been done

or omitted by him/her/it personally, provided such an act or omission was within the scope of employment or the scope of authority of such agent or employee. (Ord. #2013-08, July 2013)

CHAPTER 6

CURFEW REGULATIONS

SECTION

- 11-601. Short title.
- 11-602. Definitions.
- 11-603. Restrictions.
- 11-604. Exceptions.
- 11-605. Violations and penalty.

11-601. Short title. This chapter shall be known and may be cited as the "curfew chapter." (1995 Code, § 11-901)

11-602. Definitions. For purposes of the curfew chapter the following terms, phrases, words and their derivations shall have the meanings 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 and words in the singular number include the plural. The word "shall" is always mandatory and not merely directory.

- (1) "City" is the City of Fayetteville, Tennessee.
- (2) "Minor" or "juvenile" is any unemancipated person under the age of eighteen (18) years or, in equivalent phrasing often herein employed, any person seventeen (17) or less years of age.
- (3) "Parent" is any person having legal custody of a minor:
 - (a) As a natural or adoptive parent;
 - (b) As a legal guardian; or
 - (c) As a person to whom legal custody has been given by order of the court.
- (4) "Remain" means to stay behind, to tarry and to stay unnecessarily upon the streets.
- (5) "Street" is a way or place, of whatsoever nature, open to the use of the public as a matter of right for purposes of vehicular travel or in the case of time, whether Central Standard Time or Central Daylight Saving Time, generally observed at that hour by the public in the city.
- (6) "The police department" shall refer to the Police Department of the City of Fayetteville. (1995 Code, § 11-902)

11-603. Restrictions. (1) It shall be unlawful for any minor under eighteen (18) years of age to loiter or remain in or upon any public street, highway, park, vacant lot or other public place within the city during period ending at 5:00 A.M. and beginning at:

- (a) 12:00 A.M. on Saturday and Sunday mornings, and
- (b) 11:00 P.M. on Sunday night through Thursday night.

(2) It shall further be unlawful for a parent of a minor to knowingly permit or by inefficient control to allow such minor to be or remain upon any city street under circumstances not constituting an exception to, or otherwise beyond the scope of, the curfew chapter. The term "knowingly" includes knowledge which a parent should reasonably be expected to have concerning the whereabouts of a minor in that parent's legal custody. It is intended to continue to keep neglectful or careless parents up to a reasonable community standard of parental responsibility through an objective test. It shall be no defense that a parent was completely indifferent to the activities or conduct or whereabouts of such minor child.

(3) It shall further be unlawful for any person, firm or corporation operating or having charge of any public place to knowingly permit minors to remain in their public place under circumstances not constituting an exception to, or otherwise beyond the scope of the curfew chapter. (1995 Code, § 11-903)

11-604. Exceptions. The following shall constitute valid exceptions to the operation of the curfew.

(1) At any time, if a minor is accompanied by his or her parent or by his/her spouse who is eighteen (18) years of age or older;

(2) When accompanied by an adult authorized by a parent of such minor to take said parent's place in accompanying said minor for a designated period or time and purpose within a specified area;

(3) Until the hour of 12:30 A.M. if the minor is on an errand as directed by his or her parent;

(4) If the minor is legally employed, for the period from forty-five (45) minutes before to forty-five (45) minutes after work, while going directly between his or her home and place of employment. This exception shall also apply if the minor is in a public place during curfew hours in the course of his or her employment. To come within this exception, the minor must be carrying a written statement of employment issued by employer pursuant to the authorization of the chief of police to expire within ninety (90) days;

(5) When returning home by a direct route from (and within thirty (30) minutes of the termination of) a school activity or an activity of a religious or other voluntary association, or a place of public entertainment, such as a movie, play or sporting event. This exception will not apply beyond 1:30 A.M. if the event is not commercial in nature or does not have a fixed, public known time at which it will or does end, the sponsoring organization must register the event with the Chief of Police of the City of Fayetteville (or his assigned representative) at least twenty-four (24) hours in advance, informing the police department of the time such event is scheduled to begin, the place at which it shall be held, the time at which it shall end and the name of the sponsoring organization;

(6) In the case of reasonable necessity, but only after such minor's parent has communicated to the police department personnel the facts

establishing such reasonable necessity relating to specified streets at a designated time for a describe purpose including place or origin and destination. A copy of such communication, or the police record thereof, duly certified by the chief of police to be correct, an appropriate notation of the time it was received and of the names and addresses of such parent and minor shall constitute evidence of qualification under this exception;

(7) When a minor is, with parental consent, in a motor vehicle engaged, in bona fide interstate travel through the city. This also exempts all interstate travel beginning or ending in the City of Fayetteville. (1995 Code, § 11-904)

11-605. Violations and penalty. (1) A police officer of the city who has probable cause to believe that a minor is in violation of this chapter shall:

(a) Ascertain the name and address of the minor and of the minor's parents

(b) Issue the minor a written warning that the minor is in violation of this chapter;

(c) Order the minor to go promptly home by a direct route; and

(d) Notify or cause to be notified by mail the parent of said minor of the curfew violation.

(2) Notwithstanding paragraph (1)(a) of this section, a police officer who has probable cause to believe that minor is in violation of this chapter, shall transport the minor to the police department if:

(a) The minor refuses to give the officer his/her correct name and address; or

(b) Fails to obey the order to go promptly home by a direct route.

(c) Fails to sign the citation stating his/her willingness to appear in court as set out in (3)(a) hereafter.

(3) A police officer of the city shall when the minor has received one previous written warning for violation of this chapter:

(a) Issue a citation for the minor to appear in juvenile court.

(b) Notify or cause to be notified by mail or otherwise the parent of said minor of the violation and the court time and date.

(4) When a minor is taken to the police department, the minor's parents shall be immediately contacted. If after this contact there is still probable cause to believe that the minor was violating this chapter, the minor shall be held until the parent comes to take the minor home. If no parent has arrived within three (3) hours, the minor shall be turned over to custody of the local juvenile authorities until a parent can take custody of him or her.

(5) Any minor violating the provision of this chapter shall be dealt with in accordance with the juvenile court law and procedure. Any parent violating this chapter shall be fined not more than five hundred dollars (\$500.00) for each offense. (1995 Code, § 11-905)

CHAPTER 7

LITTERING

SECTION

11-701. Definitions.

11-702. Litter in public and private places.

11-703. Sweeping litter into gutters prohibited.

11-704. Litter thrown by persons in vehicles.

11-705. Owners to maintain premises free from litter.

11-706. Violation notices.

11-701. Definitions. For the purpose of this chapter, the following words, terms and phrases shall have the following meanings:

(1) "Litter" is paper, wrappings, cigarettes, cardboard, bottles, cans, glass, yard clippings, leaves, wood, bedding, crockery and similar materials.

(2) "Person" is any person, firm, partnership, association, company, or organization of any kind. (1995 Code, § 11-1001)

11-702. Litter in public and private places. No person shall throw or deposit litter in or upon any street, sidewalk or other public place within the city, except in public trash receptacles, and no person shall throw or deposit litter upon private property except in private receptacles for collection. (1995 Code, § 11-1002)

11-703. Sweeping litter into gutters prohibited. No person shall sweep into or deposit in any gutter, street or other public place within the city the accumulation of litter from any building or lot, or from any public or private sidewalk or driveway. Persons owning or occupying business property shall keep the public sidewalk in front of their premises free of litter. (1995 Code, § 11-1003)

11-704. Litter thrown by persons in vehicles. No person, while a driver or a passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the city, or upon private property. (1995 Code, § 11-1004)

11-705. Owner to maintain premises free of litter. The owner or person in control of any private property shall at all times maintain the premises free of litter. Provided, however, that this section shall not prohibit the storage of litter in private receptacles for collection. (1995 Code, § 11-1005)

11-706. Violation notices. The building official or his authorized delegate is hereby authorized and empowered to notify the owner or person in

control of property, or the agent of such owner or person in control, of any violation of the provisions of this chapter. Such notice shall be mailed to such person's last known address. Provided, however, that failure to send any such notice shall not prevent the invoking of any other penalty for violation of this chapter. (1995 Code, § 11-1006)

TITLE 12

BUILDING, UTILITY, ETC. CODES

CHAPTER

1. BUILDING CODE.
2. PLUMBING CODE.
3. ELECTRICAL CODE.
4. FUEL GAS CODE.
5. RESIDENTIAL CODE.
6. ENERGY CONSERVATION CODE.
7. MECHANICAL CODE.
8. PROPERTY MAINTENANCE CODE.
9. EXISTING BUILDING CODE.
10. LIFE SAFETY CODE.

CHAPTER 1

BUILDING CODE¹

SECTION

- 12-101. Building code adopted.
- 12-102. Modifications.
- 12-103. Available in planning and codes enforcement office.
- 12-104. Construction near utilities.
- 12-105. Violations and penalty.

12-101. Building code adopted. (1) Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-506, and for the purpose of regulating the construction, alteration, repair, use, occupancy, location, maintenance, removal, and demolition of every building or structure or any appurtenance connected or attached to any building or structure, the *International Building Code*,² 2012 edition, including Appendix Chapters A, B, C, D, E, F, G, H, I, J, and K, and all subsequent amendments or additions to the said code, as prepared and adopted by the International Code Council, is hereby

¹Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

²Copies of this code (and any amendments) are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

adopted and incorporated by reference as a part of this code as fully as if copied herein verbatim, and is hereinafter referred to as the building code.

(2) The following sections are hereby revised:

Section 101.1 City of Fayetteville
 Section 1612.3 City of Fayetteville
 Section 1612.3 September 19, 2007
 Section 3412.2 April 6, 1964.

(3) Any new commercial structure of five thousand (5,000) square feet or greater in area or additions or alteration to any commercial building or structures with an improvement of fifty percent (50%) or greater of the appraised tax value shall comply with section 903.3.1 of the *International Building Code*. (Ord. #2014-15, Nov. 2014, modified)

12-102. Modifications. The following sections are hereby revised to read as follows:

(1) Permit fees. Schedules of permit fees, as revised from time to time, are available in the planning and codes enforcement office.

(2) Appendix B of the building code is amended as follows:

(A) Strike "Recommended" where the same appears before "Schedule of Permit Fees."

(B) Strike the first two classifications for permit fees under B 101 and insert in lieu thereof the following:

\$750 and less valuation - No fee

\$750.00	to	\$2,000.00	=	\$10.00
\$2,001.00	to	\$3,000.00	=	\$26.00
\$3,001.00	to	\$4,000.00	=	\$32.00
\$4,001.00	to	\$5,000.00	=	\$38.00
\$5,001.00	to	\$6,000.00	=	\$44.00
\$6,001.00	to	\$7,000.00	=	\$50.00
\$7,001.00	to	\$8,000.00	=	\$56.00
\$8,001.00	to	\$9,000.00	=	\$62.00
\$9,001.00	to	\$10,000.00	=	\$68.00
\$10,001.00	to	\$11,000.00	=	\$74.00
\$11,001.00	to	\$12,000.00	=	\$80.00
\$12,001.00	to	\$13,000.00	=	\$86.00
\$13,001.00	to	\$14,000.00	=	\$92.00
\$14,001.00	to	\$15,000.00	=	\$98.00
\$15,001.00	to	\$16,000.00	=	\$103.00
\$16,001.00	to	\$17,000.00	=	\$108.00
\$17,001.00	to	\$18,000.00	=	\$113.00
\$18,001.00	to	\$19,000.00	=	\$118.00
\$19,001.00	to	\$20,000.00	=	\$123.00
\$20,001.00	to	\$21,000.00	=	\$128.00
\$21,001.00	to	\$22,000.00	=	\$133.00

\$22,001.00	to	\$23,000.00	=	\$138.00
\$23,001.00	to	\$24,000.00	=	\$143.00
\$24,001.00	to	\$25,000.00	=	\$148.00
\$25,001.00	to	\$26,000.00	=	\$153.00
\$25,001.00	to	\$26,000.00	=	\$153.00
\$26,001.00	to	\$27,000.00	=	\$158.00
\$27,001.00	to	\$28,000.00	=	\$163.00
\$28,001.00	to	\$29,000.00	=	\$168.00
\$29,001.00	to	\$30,000.00	=	\$173.00
\$30,001.00	to	\$31,000.00	=	\$178.00
\$31,001.00	to	\$32,000.00	=	\$183.00
\$32,001.00	to	\$33,000.00	=	\$188.00
\$33,001.00	to	\$34,000.00	=	\$193.00
\$34,001.00	to	\$35,000.00	=	\$198.00
\$35,001.00	to	\$36,000.00	=	\$203.00
\$36,001.00	to	\$37,000.00	=	\$208.00
\$37,001.00	to	\$38,000.00	=	\$213.00
\$38,001.00	to	\$39,000.00	=	\$218.00
\$39,001.00	to	\$40,000.00	=	\$223.00
\$40,001.00	to	\$41,000.00	=	\$228.00
\$41,001.00	to	\$42,000.00	=	\$233.00
\$42,001.00	to	\$43,000.00	=	\$238.00
\$43,001.00	to	\$44,000.00	=	\$243.00
\$44,001.00	to	\$45,000.00	=	\$248.00
\$45,001.00	to	\$46,000.00	=	\$253.00
\$46,001.00	to	\$47,000.00	=	\$258.00
\$47,001.00	to	\$48,000.00	=	\$263.00
\$48,001.00	to	\$49,000.00	=	\$268.00
\$49,001.00	to	\$50,000.00	=	\$273.00
\$50,001.00	to	\$100,000.00		\$273.00 plus \$3.00 for each additional \$1,000.00.

\$100,001.00 and above \$427.00 plus \$1.00 for each additional \$1000.00

For new construction, permit fees shall be figured as follows:

\$88.03 per square foot multiplied by .004 per cent (%).

(C) Add the following to B101 Permit fees:

"There shall be no charge for a permit issued to a religious or non-profit corporation. Permit fees shall not be charged for any remodeling or repair of an existing residential or retail commercial building, not exceeding \$750.00 in cost, provided the permit is secured prior to the time of commencement of the remodeling or repair. Swimming pool

permits shall be \$200.00 for in-ground pools and \$100.00 for above-ground pools"

(D) Strike the entire contents of Section B-102 and add the following:

"The fee for moving any building or structure shall be \$250.00."

(E) Strike the entire contents of B-103 and add the following:
"Fee for demolition permits shall be \$25.00."

(3) Section 3108.2 of said building code is amended by adding thereto the following:

"Portable Sign - means a sign illuminated or otherwise constructed on a trailer or portable frame and designed to be rented and frequently moved from location to location."

(4) Section 3108.1.3 of said building code is amended by adding thereto the following:

"3108.1.3.3 All portable signs shall be in operable condition and shall be adequately maintained including but not limited to no broken or bent legs or holes in the signs."

12-103. Available in planning and codes enforcement office.

Pursuant to the requirements of the *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the building code has been placed on file in the planning and codes enforcement office and shall be kept there for the use and inspection of the public.

12-104. Construction near utilities. When any construction is to be carried on near any of the city's utilities the contractor or other person responsible for such construction shall notify the office of the utility concerned of the time and place of such construction and shall keep that office informed as to the progress of the construction until it is completed.

The contractor or other person carrying on such construction shall take every precaution to protect the city's utility installations and shall, at his expense, replace or repair to their original condition any utility installations which he damages. He shall also pay for any gas or water loss occasioned. (1995 Code, § 12-104)

12-105. Violations and penalty. 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. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 2

PLUMBING CODE¹

SECTION

12-201. Plumbing code adopted.

12-202. Available in planning and codes enforcement office.

12-203. Violations and penalty.

12-201. Plumbing code adopted. (1) Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 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/town, when such plumbing is or is to be connected with the city/town water or sewerage system, the *International Plumbing Code*,² 2012 edition, including Appendix Chapters B, C, D, E, and F, and all subsequent amendments or additions to the said code, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code as fully as if copied herein verbatim, and is hereinafter referred to as the plumbing code.

(2) The following sections are hereby revised:

Section 101.1. City of Fayetteville

Section 106.6.2. Schedule of permit fees.³

Section 106.6.3. 75%, 50%

Section 108.5. \$50.00, \$50.00

Section 305.4.1 4" (101.6 mm), 4" (101.6 mm)

Section 903.1. 12". (Ord. #2014-16, Nov. 2014, modified)

12-202. Available in planning and codes enforcement office. Pursuant to the requirements of *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the plumbing code has been placed on file in the planning and codes

¹Municipal code references

Cross-connections: title 18.

Street excavations: title 16.

Wastewater treatment: title 18.

Water and sewer system administration: title 18.

²Copies of this code (and any amendments) are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

³Available in the planning and codes enforcement office.

enforcement office and shall be kept there for the use and inspection of the public.

12-203. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the plumbing code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 3

ELECTRICAL CODE¹

SECTION

12-301. Electrical code adopted.

12-302. Available in planning and codes enforcement office.

12-303. Violations and penalty.

12-301. Electrical code adopted. (1) Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-506, and for the purpose of providing practical minimum standards for the safeguarding of persons and of buildings and their contents from hazards arising from the use of electricity for light, heat, power, radio, signaling, or for other purposes, the *National Electrical Code*,² 2011 edition, as prepared by the National Fire Protection Association, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the electrical code referenced in all the newly adopted International Code Council codes referenced as IBC 2012, IRC 2012, IFC 2012, IMC 2012, IECC 2012, IPC 2012, IEBC 2012, IFGC 2012 and the IPMC 2012.

(2) The following sections are hereby revised:

Section 90.4 "The authority having jurisdiction" shall be the State of Tennessee. (Ord. #2014-17, Nov. 2014, modified)

12-302. Available in planning and codes enforcement office. Pursuant to the requirements of *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the electrical code has been placed on file in the planning and codes enforcement office and shall be kept there for the use and inspection of the public.

12-303. Violations and penalty. 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. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

¹Municipal code references

Fire protection, fireworks and explosives: title 7.

²Copies of this code are available from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269-9101.

CHAPTER 4

FUEL GAS CODE

SECTION

12-401. Fuel gas code adopted.

12-402. Available in planning and codes enforcement office.

12-403. Violations and penalty.

12-401. Fuel gas code adopted. (1) The purpose of the fuel 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, including Appendix Chapters A, B, C and D, and all subsequent amendments or additions to the said code, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code as fully as if copied herein verbatim, and is hereinafter referred to as the fuel gas code is hereby adopted and incorporated by reference and made a part of this chapter as if fully set forth herein and shall be referred to as the fuel gas code.

(2) The following sections are hereby revised:

Section 101.1. City of Fayetteville

Section 106.6.2. Schedule of permit fees.²

Section 106.6.3 (2) 75%

Section 106.6.3 (3) 50%

Section 108.4 Code Violation, \$50.00 per day; one (1) day

Section 108.5 Stop Work Orders \$50.00 per day/ \$500.00 per day.

(Ord. #2014-18, Nov. 2011, modified)

12-402. Available in planning and codes enforcement office. Pursuant to the requirements of *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the fuel gas code has been placed on file in the planning and codes enforcement office and shall be kept there for the use and inspection of the public.

12-403. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the gas code as herein adopted by reference and modified. The violation of any section of this chapter shall be

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

²Available in the planning and codes enforcement office.

punishable under the general penalty provision of this code, or the license of such person may be revoked, or both fine and revocation of license may be imposed. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 5

RESIDENTIAL CODE

SECTION

12-501. Residential code adopted.

12-502. Available in planning and codes enforcement office.

12-503. Violations and penalty.

12-501. Residential code adopted. (1) Pursuant to authority granted by *Tennessee Code Annotated* §§ 6-54-501 to 6-54-506, and for regulating and governing the constitution, alteration, movement, enlargement, replacement, repair, equipment, location, removal and demolition of detached one- and two-family dwellings and multiple single family dwellings (townhouses) not more than three stories in height with separate means of egress as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said *International Residential Code*,¹ 2012 edition, including Appendix Chapters A, B, C, D, E, F, G, H, I, J, K, M, N, O, P, Q (see *International Building Code* Section R102.5, 2012 edition), and all subsequent amendments or additions to the said code, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code as fully as if copied herein verbatim, and is hereinafter referred to as the residential code.

(2) The following sections are hereby revised:

Section R101.1 City of Fayetteville

Section P2603.6.1 4" (101.6 mm), 4". (101.6 mm). (Ord. #2014-24, Nov. 2014, modified)

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

12-503. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the residential code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this

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

code. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 6

ENERGY CONSERVATION CODE¹

SECTION

12 601. Energy code adopted.

12 602. Available in planning and codes enforcement office.

12 603. Violations and penalty.

12-601. Energy code adopted. (1) Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-506, and for the purpose of regulating the design of buildings for adequate thermal resistance and low air leakage and the design and selection of mechanical, electrical, water-heating and illumination systems and equipment which will enable the effective use of energy in new building construction, the *International Energy Conservation Code*,² 2012 edition, and all subsequent amendments or additions to said code, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and are hereinafter referred to as the energy code.

(2) The following sections are hereby revised:

Section 101.1. City of Fayetteville. (Ord. #2014-19, Nov. 2011, modified)

12-602. Available in planning and codes enforcement office. Pursuant to the requirements of *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the energy code has been placed on file in the planning and codes enforcement office and shall be kept there for the use and inspection of the public.

12-603. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the energy code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

¹Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

²Copies of this code (and any amendments) are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

CHAPTER 7

MECHANICAL CODE¹

SECTION

12-701. Mechanical code adopted.

12-702. Available in the planning and codes enforcement office.

12-703. Violations and penalty.

12-701. Mechanical code adopted. (1) Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-506, and for the purpose of regulating the installation of mechanical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and/or appurtenances thereto, including ventilating, heating, cooling, air conditioning, and refrigeration systems, incinerators, and other energy-related systems, the *International Mechanical Code*,² 2012 edition, including Appendix Chapter A, and all subsequent amendments or additions to the said code, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code as fully as if copied herein verbatim and is hereinafter referred to as the mechanical code.

(2) The following sections are hereby revised.

Section 101.1. City of Fayetteville

Section 106.5.2. Schedule of permit fees.³

Section 106.5.3(2) 75%

Section 106.5.3(3) 50%

Section 108.5 \$50.00, \$500.00. (Ord. #2014-20, Nov. 2011, modified)

12-703. Available in planning and codes enforcement office. Pursuant to the requirements of *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the mechanical code has been placed on file in the planning and codes enforcement office and shall be kept there for the use and inspection of the public.

¹Municipal code references

Street excavations: title 16.

Wastewater treatment: title 18.

Water and sewer system administration: title 18.

²Copies of this code (and any amendments) are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

³Available in the planning and codes enforcement office.

12-704. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the mechanical code as herein adopted. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 8

PROPERTY MAINTENANCE CODE

SECTION

12-801. Property maintenance code adopted.

12-802. Available in the planning and codes enforcement office.

12-803. Violations and penalty.

12-801. Property maintenance code adopted. (1) Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-506, and for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said *International Property Maintenance Code*,¹ 2012 edition, and all subsequent amendments or additions to the said code, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code as fully as if copied herein verbatim, and is hereinafter referred to as the property maintenance code.

(2) The following sections are hereby revised:

Section 101.1. City of Fayetteville

Section 103.5. Schedule of permit fees.²

Section 302.4. 12 inches

Section 304.14. October 16, 2007, until this ordinance is repealed

Section 602.3. October 16, 2007, until this ordinance is repealed

Section 602.4. October 16, 2007, until this ordinance is repealed.

(Ord. #2014-23, Nov. 2011, modified)

12-802. Available in planning and codes enforcement office. Pursuant to the requirements of *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the property maintenance code has been placed on file in the planning and codes enforcement office and shall be kept there for the use and inspection of the public.

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

²Available in the planning and codes enforcement office.

12-803. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the property maintenance code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 9

EXISTING BUILDING CODE

SECTION

12-901. Existing building code adopted.

12-902. Available in the planning and codes enforcement office.

12-903. Violations and penalty.

12-901. Existing building code adopted. (1) Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-506, and for regulating and governing the repair, alteration, change of occupancy, addition and relocation of existing building, including historic buildings, as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms, the purpose of providing a concise set of regulations and procedures to effect safety in occupancy, the *International Existing Building Code*,¹ 2012 edition, including Appendix Chapters A, B, C, as well as Resource A, and all subsequent amendments or additions to the said code, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code as fully as if copied herein verbatim, and is hereinafter referred to as the existing building code.

(2) The following sections are hereby revised:

Section 101.1 City of Fayetteville

Section 1401.2 April 6, 1964. (Ord. #2014-22, Nov. 2014, modified)

12-902. Available in planning and codes enforcement office. Pursuant to the requirements of *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the existing building code has been placed on file in the planning and codes enforcement office and shall be kept there for the use and inspection of the public.

12-903. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the existing building code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

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

CHAPTER 10

LIFE SAFETY CODE¹

SECTION

12-1001. Life safety code adopted.

12-1002. Available in planning and codes enforcement office.

12-1003. Violations and penalty.

12-1001. Life safety code adopted. (1) Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-509, the *Code for Safety to Life From Fire in Buildings and Structures*,² 2012 edition, as prepared by the National Fire Protection Association is hereby adopted and incorporated by reference as a part of this code as fully as if copied herein verbatim, and is hereinafter referred to as the life safety code except as follows:

except as follows:

(a) Section R313.1 requiring automatic sprinkler systems in townhouses is amended so that an automatic residential fire sprinkler system shall not be required in townhouses if a two (2) hour fire resistance rated wall exists between units, provided such walls do not contain plumbing and/or mechanical equipment, ducts or vents; and

(b) Section R313.2 pertaining to automatic sprinkler systems in one- and two- family dwellings shall not be adopted to the City of Fayetteville.

(c) Section 24.3.5 Extinguishment Requirements as found on pages 101-221 through 101-222 shall not be applicable to the City of Fayetteville.

(2) Enforcing authority. The enforcing authority mentioned in said code shall be the building official and the fire chief. (Ord. #2014-21, Nov. 2014, modified)

12-1002. Available in planning and codes enforcement office. Pursuant to the requirements of *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the life safety code has been placed on file in the planning and codes enforcement office and shall be kept there for the use and inspection of the public.

¹Municipal code references
Fire code: title 7.

²Copies of this code are available from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269-9101.

12-1003. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the life safety code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

TITLE 13

PROPERTY MAINTENANCE REGULATIONS¹

CHAPTER

1. MISCELLANEOUS.
2. MOSQUITOES.
3. DIRTY LOTS.
4. INOPERATIVE VEHICLES, ETC.
5. SLUM CLEARANCE

CHAPTER 1

MISCELLANEOUS

SECTION

- 13-101. Health officer.
- 13-102. Smoke, soot, cinders, etc.
- 13-103. Stagnant water.
- 13-104. Weeds.
- 13-105. Dead animals.
- 13-106. Health and sanitation nuisances.
- 13-107. House trailers.

13-101. Health officer. The "health officer" shall be the chief of police or such city, county, or state officer as the board of mayor and aldermen shall appoint or designate to administer and enforce health and sanitation regulations within the city. (Ord. #2016-07, May 2016)

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, 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. (Ord. #2016-07, May 2016)

13-103. Stagnant water. It shall be unlawful for any person to knowingly allow any pool of stagnant water to accumulate and stand on his property. (Ord. #2016-07, May 2016)

¹Municipal 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 judge or chief of police to cut such vegetation when it has reached a height of over eight inches (8"). (Ord. #2016-07, May 2016)

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 health officer and dispose of such animal in such manner as the health officer shall direct.

When any such prohibited condition comes to the attention of the judge he shall order the person responsible therefor to remedy the situation within ten (10) days. Should the condition not be remedied within the time specified in the notice, the city clerk shall have the work done at city expense and the cost thereof shall become a lien upon the property enforceable the same as delinquent taxes. (Ord. #2016-07, May 2016)

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.

When any such prohibited condition comes to the attention of the judge he shall order the person responsible therefor to remedy the situation within ten (10) days. Should the condition not be remedied within the time specified in the notice, the city clerk shall have the work done at city expense and the cost thereof shall become a lien upon the property enforceable the same as delinquent taxes. (Ord. #2016-07, May 2016)

13-107. House trailers. It shall be unlawful for any person to park, locate, or occupy any house trailer or portable building unless it complies with all plumbing, electrical, sanitary, and building provisions applicable to stationary structures and the proposed location conforms to the zoning provisions of the city and unless a permit therefor shall have been first duly issued by the building official, as provided for in the building code. (Ord. #2016-07, May 2016)

CHAPTER 2

MOSQUITOES

SECTION

- 13-201. Breeding places to be treated.
- 13-202. Breeding places enumerated.
- 13-203. Methods of treatment.
- 13-204. Evidence of breeding.
- 13-205. Abatement by health officer at offender's expense.
- 13-206. Abatement by health officer at city's expense.
- 13-207. Permit, etc., required for fish pools.
- 13-208. Enforcement by health officer.
- 13-209. Police, etc., to cooperate with health officer.

13-201. Breeding places to be treated. It shall be unlawful for any property owner, agent of such owner, tenant, sub-tenant, or other occupant of any property or premises located within the corporate limits to have, keep, maintain, cause or permit upon said property or premises any collection of standing or flowing water in which mosquitoes breed, unless such water is treated so as to effectively prevent such breeding. (Ord. #2016-07, May 2016)

13-202. Breeding places enumerated. The collection of water mentioned in § 13-201 shall be held to include that contained in ditches, pools, ponds, excavations, holes, depressions, open cesspools, privy vaults, fountains, cisterns, tanks, shallow wells, barrels, troughs, urns, cans, boxes, bottles, tubs, automobile bodies, buckets, defective house roof gutters, tanks of flush closets, or other similar water containers. (Ord. #2016-07, May 2016)

13-203. Methods of treatment. The method of treating collections of water for the prevention of breeding mosquitoes shall be approved by the health officer and may be any one of the following:

(1) Screening with wire netting of at least sixteen (16) meshes to the inch each way or with other material which will effectively prevent the ingress or egress of mosquitoes.

(2) Complete emptying and thorough drying or cleaning of unscreened containers every seven (7) days.

(3) Using a larvicide approved and applied under the directions of the health officer.

(4) Cleaning and keeping sufficiently free of vegetable growth and other obstructions and stocking with mosquito-destroying fish.

(5) Filling or draining to the satisfaction of the health officer.

(6) Removal or destruction of tin cans, tin boxes, broken or empty bottles and similar articles likely to hold water. (Ord. #2016-07, May 2016)

13-204. Evidence of breeding. The natural presence of mosquito larvae in standing or running water shall be evidence that mosquitoes are breeding there and that such water is being maintained in violation of this chapter. (Ord. #2016-07, May 2016)

13-205. Abatement by health officer at offender's expense. Should any person or persons responsible for conditions giving rise to the breeding of mosquitoes fail or refuse to take necessary measures to prevent the same, the health officer, or his authorized agent is hereby authorized to do so, and all necessary cost incurred by him for this purpose shall be a charge against the property owner, or other person offending as the case may be. (Ord. #2016-07, May 2016)

13-206. Abatement by health officer at city's expense. The health officer or his representatives, if he deems it necessary, may immediately treat or have treated at city expense any collection of standing or floating water in which mosquitoes are found to be breeding on public or private property. (Ord. #2016-07, May 2016)

13-207. Permit, etc., required for fish pools. It shall be unlawful for any person to construct, possess, or maintain a fish pool within the corporate limits, where malaria transmitting and pest mosquitoes may breed, without first securing a permit from the health officer and thereafter maintaining or continuing such fish pond or pool so as to at all times prevent the propagation or breeding of such mosquitoes. (Ord. #2016-07, May 2016)

13-208. Enforcement by health officer. For the purpose of enforcing the provisions of this chapter, the health officer or his agent may at all reasonable times enter in or upon any premises within the corporate limits and order abatement of violations. It shall be unlawful for any person to fail to comply with any such order of the health officer. (Ord. #2016-07, May 2016)

13-209. Police, etc., to cooperate with health officer. It shall be the duty of all police officers and the director of public works of the city to cooperate with the health officer in carrying out and seeing that the provisions of this chapter are properly enforced. (Ord. #2016-07, May 2016)

CHAPTER 3

DIRTY LOTS

SECTION

- 13-301. Short title.
- 13-302. Declaration of nuisance.
- 13-303. Permitting accumulations of weeds or other vegetation unlawful.
- 13-304. Permitting accumulations of debris unlawful.
- 13-305. Raking, piling of weeds and rubbish; placement.
- 13-306. Removal; notice.
- 13-307. Noncompliance; abatement at owner's expense; nonpayment.
- 13-308. Complaints.
- 13-309. Lots where dumping of fill material occurs.
- 13-310. Violations and penalty.

13-301. Short title. This chapter may be cited as the dirty lot ordinance. (Ord. #2016-07, May 2016)

13-302. Declaration of nuisance. The existence within the corporate limits of the City of Fayetteville of lots and parcels of land overgrown with obnoxious weeds or burdened with accumulations of rubbish and refuse are hereby declared to be a nuisance. (Ord. #2016-07, May 2016)

13-303. Permitting accumulations of weeds or other vegetation unlawful. (1) Except as set out in (3) hereof, it shall be unlawful for any person owning, leasing, occupying or having control of property in the city to permit or suffer weeds or other vegetation to grow on such property to such an extent that such a nuisance is created injurious to the health and welfare of the inhabitants of the city. Weeds or other vegetation that have attained a height of eight inches (8") or more shall be presumed to be detrimental to the public health and a public nuisance, which presumption may be rebutted by competent evidence.

(2) It shall also be unlawful for any person, occupant, or anyone having supervision or control of any lot, tract, parcel of land or portion thereof, occupied or unoccupied, improved or unimproved, within the city to suffer or permit grass, weeds or any plant that is not cultivated to grow in rank profusion, or otherwise, in, along, upon or across the sidewalk or street adjacent to same in the area between the property line and the curblin, or within the area ten feet (10') beyond the property line, to a height greater than eight inches (8") on an average.

(3) Property owners owning no less than three (3) acres and desiring to cut the same for hay shall:

(a) Cut and maintain the field around every side at the property line for a width of no less than ten feet (10'). (This includes fences, borders, trees and brush lines.)

(b) Cut and maintain to the curbline or edge of the street in accordance with subsection (2) above;

(c) Cut the field at least three (3) times during cutting season with cutting dates no later than June 1st first cutting, July 15th second cutting and September 1st third cutting; and

(d) Notify the building official of the address of the lot to be cut for hay. (Ord. #2016-07, May 2016)

13-304. Permitting accumulations of debris unlawful. No persons or entities owning, leasing, occupying or having control of property in the city shall allow or leave any debris, rubbish, or unlawful clutter including but not limited to trash, garbage, toys, tools, papers of every description, automobile parts, furniture, appliances, ashes, tin or aluminum cans, glass or plastic containers, indoor furniture, boxes, mattresses, firewood that is not neatly stacked, yard maintenance items, and discarded materials of any kind to accumulate on their property including front, back or side yards or porches for a period of more than seven (7) days. Building materials including lumber, bricks, concrete blocks, sand and gravel shall not be permitted to accumulate in such areas for a period of more than thirty (30) days. (Ord. #2016-07, May 2016)

13-305. Raking, piling of weeds and rubbish; placement. It shall be unlawful for any person owning, leasing, occupying or having control of property in the city to rake up, cut up or pile up said weeds, grass, brush, vegetation, dead or broken tree limbs, dead trees or rubbish into any ditch or natural drain or at any place on the property that might obstruct the vision of the operators of vehicles or pedestrians or obstruct the flow of water drainage. (Ord. #2016-07, May 2016)

13-306. Removal; notice. Upon failure of any owner of property within the corporate limits of the city to cut or have cut such obnoxious growths of weeds or other vegetation, or to remove or have removed such accumulations of trash, rubbish and refuse as described in this chapter, it shall be the duty of the building official, or such other persons as are designated by the mayor, to serve a notice on the owner, lessee, occupant or person having control of such property, ordering said person or persons to cut or have cut such obnoxious weeds and/or remove or have removed such accumulations of trash, rubbish and refuse within five (5) days of the service of such notice. Such notice may be served:

(1) By personally serving the same on the owner, lessee, occupant, or person having control of such property; or

(2) By mailing the same to the last known address of such owner, lessee, occupant, or person having control of such property by certified mail; or

(3) By posting the same on the property on which such condition or conditions exist.

Service of notice by any of the above methods shall be due notice within the meaning of this article, provided however, that no owner out of possession shall be liable to the penalty imposed by § 13-307 unless there shall be personal service of such notice upon him, or such notice mailed to him by certified mail as aforesaid. (Ord. #2016-07, May 2016)

13-306. Noncompliance; abatement at owner's expense; non-payment. If the owner or other person described in § 13-305 herein shall fail to remedy such conditions within the time prescribed therein, unless an appeal is made, the inspector shall certify such failure to the city administrator who shall take such action as is necessary to remedy the conditions and abate the nuisance. If City of Fayetteville employees and equipment are used in abating the nuisance, the city administrator shall determine the reasonable cost of the required inspections, recorded examinations, notifications, complaint response, and movement of employees and equipment to and from the site in establishing a base charge to which additional charges for equipment and employee operating time shall be added to establish the total cost to be billed to the owner. Upon failure of the owner to remit to the city the amount of such charge within sixty (60) days from the date of such notice, a ten percent (10%) penalty shall be added and the total amount of the bill and the penalty shall be certified by the city clerk and shall constitute a lien upon the property for which the expenditure is made, which lien may be enforced by a suit in the chancery court as are other tax liens of the city. The provisions of this section are not exclusive but are cumulative and in addition to the penalties and requirements of § 13-307, it being the intent of the council that the penalty provision of § 13-307 shall be in addition to the burden placed upon the owner of the property set out in the provisions of this section. (Ord. #2016-07, May 2016)

13-308. Complaints. A complaint may be made by a city resident to the codes enforcement officer regarding weeds, vegetation, debris or rubbish. Upon the receipt of such complaint, the codes officer shall conduct an inspection and investigation to determine if a violation of this chapter has occurred. The codes enforcement officer may conduct an inspection and investigation upon the officer's own observation of weeds, vegetation, debris or rubbish in violation of this chapter. (Ord. #2016-07, May 2016)

13-309. Lots where dumping of fill material occurs. Property owners who permit others to deposit dirt, rock, concrete, masonry or other material on their properties for the purpose of raising the property grade or otherwise filling the property shall be required to level each load of material

within sixty (60) days of the date each load is dumped. (Ord. #2016-07, May 2016)

13-310. Violations and penalty. Any person, firm or corporation violating the provisions of this chapter shall be guilty of a misdemeanor and punishable by a fine not more than fifty dollars (\$50.00) and each day's violation shall constitute a separate offense. (Ord. #2016-07, May 2016)

CHAPTER 4

INOPERATIVE VEHICLES, ETC.

SECTION

13-401. Definitions.

13-402. Inoperative motor vehicles prohibited.

13-403. Nuisance.

13-404. Notice to owner to remove vehicle.

13-405. Removal by owner.

13-406. Removal by city.

13-401. Definitions. (1) "Motor vehicle." Every vehicle as herein defined which is self-propelled or designed for self-propulsion. Any structure designed, used, or maintained primarily to be loaded on or affixed to a motor vehicle to provide a mobile dwelling, sleeping place, office, or commercial space, shall be considered a part of a motor vehicle.

(2) "Semitrailer." Every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests upon or is carried by another vehicle.

(3) "Trailer." Every vehicle without motive power designed for carrying property or passengers wholly on its own structure and for being drawn by a motor vehicle. (Ord. #2016-07, May 2016)

13-402. Inoperative motor vehicles prohibited. It shall be unlawful for any person, firm or corporation to keep, except within an enclosed building or structure, on any property zoned for residential or commercial any motor vehicle, trailer, or semitrailer, whose condition is such that it is economically impractical to make them operative; provided, however, that the provisions of this section shall not apply to a properly licensed business which on the date of passage of this chapter is regularly engaged in business as an automobile dealer, salvage dealer, or scrap processor. (Ord. #2016-07, May 2016)

13-403. Nuisance. The accumulation and storage of one (1) or more inoperative vehicles and parts therefor on private property shall constitute debris and a nuisance detrimental to the health, safety, and welfare of the residents of the city. (Ord. #2016-07, May 2016)

13-404. Notice to owner to remove vehicle. (1) If any officer of the police department of the building officials finds any vehicle in violation of § 13-402, he shall make diligent search and inquiry to determine the record owner of the land upon which the vehicle is located, and he shall notify said owner in writing by mail at his last known mailing address that he has found such violation and the nature thereof. He shall demand and it shall be the duty

of the record owner of such land to cause such vehicle to be removed from the property forthwith and taken to an authorized place of storage.

(2) The mailing of such notice shall be sufficient proof thereof.

(3) If the mailing address of the owner of the land upon which the vehicle is located is not known and the land is unoccupied and the owner has no agent in the City of Fayetteville, such notice shall be posted upon such land as notice to the owner thereof. (Ord. #2016-07, May 2016)

13-405. Removal by owner. The owner of the property on which the same is stored or located or the owner of the vehicle or either of them shall remove the vehicle within ten (10) days of the date of mailing or service of the notice as provided in § 13-404. (Ord. #2016-07, May 2016)

13-406. Removal by city. If the violation described in the notice has not been remedied within ten (10) days after the mailing or serving thereof, then the owner of the land on which the vehicle is located shall be deemed guilty of a misdemeanor for maintaining a public nuisance punishable by a fine not more than fifty dollars (\$50.00). Each day that the offending vehicle(s) is allowed to remain on the property after the passage of ten (10) days shall constitute a separate violation. (Ord. #2016-07, May 2016)

CHAPTER 5

SLUM CLEARANCE

SECTION

- 13-501. Definitions.
- 13-502. Structures unfit for human occupation or use.
- 13-503. Procedure.
- 13-504. Conditions to be taken into consideration by the public officer.
- 13-505. Services of complaints or orders.
- 13-506. Power of public officer.
- 13-507. Powers in addition.

13-501. Definitions. As used in this part, unless the context otherwise requires:

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

(2) "Governing body" means the Board of Mayor and Aldermen of the City of Fayetteville;

(3) "Municipality" means the City of Fayetteville;

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

(5) "Parties of interest" means 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" means any officer who is in charge of any department or branch of the government of the municipality relating to health, fire, building regulations or other activities concerning structures in the municipality;

(8) "Public officer" means the building official of the municipality, and

(9) "Structure" means any dwelling, place of public accommodation, vacant building or structure suitable as a dwelling or place of public accommodation. (Ord. #2016-07, May 2016)

13-502. Structures unfit for human occupation or use. Whenever any public officer or authority in the municipality finds that there exists in the City of Fayetteville structures which are unfit for human occupation or use 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 structures unsafe, unsanitary, dangerous or detrimental to the health, safety, morals, or otherwise inimical to the welfare of the residents of this municipality, such public officer or authority is hereby authorized to exercise the police power of the municipality, to repair, close or demolish the aforementioned structure in the manner herein provided. (Ord. #2016-07, May 2016)

13-503. Procedure. (1) Whenever a petition is filed with the public officer by a public authority or by at least five (5) residents of the municipality charging that any structure is unfit for human occupation or use, or whenever it appears to the public officer on his own motion that any structure is unfit for 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 the public officer's designated agent) at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the serving of the complaint.

(a) The owner and parties in interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and

(b) The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer;

(2) If, after such notice and hearing, the public officer determines that the structure under consideration is unfit for human occupation or use, he shall state in writing his findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order which provides:

(a) If the repair, alteration or improvement of the structure can be made at a reasonable cost in relation to the value of the structure, the owner, within the time specified in the order, shall repair, alter or improve such structure to render it fit for human occupation or use or shall vacate and close the structure as a place of human occupation or use; or

(b) If the repair, alteration or improvement of the structure cannot be made at reasonable cost in relation to the value of the structure, the owner, within the time specified in the order, shall remove or demolish such structure;

(3) If the owner fails to comply with an order to repair, alter, improve or vacate and close the structure, the public officer may cause such structure to be repaired, altered, improved, or vacated and closed; and 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";

(4) If the owners fail to comply with an order to remove or demolish the structure, the public officer may cause such structure to be removed or demolished;

(5) The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demotion by the public officer shall be assessed against the owner of the property, and shall, upon the filing of the notice with the office of the Register of Deeds of Lincoln County, be a lien on the property in favor of the municipality, second only to liens of the state, county and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be collected by the municipal tax collector or county trustee at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes. In addition, the municipality may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The municipality may bring one (1) action for debt against more than one (1) or all of the owners of properties against whom said costs have been assessed. 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, if any, against the costs of the removal or demolition, and any balance remaining shall be deposited in the chancery court 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.

(6) Nothing in this section shall be construed to impair or limit in any way the power of the municipality to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. (Ord. #2016-07, May 2016)

13-504. Conditions to be taken into consideration by the public officer. The public officer may determine that a structure is unfit for human occupation or use if he finds that conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants of such structure, the occupants of neighboring structures or other residents of the municipality. Such conditions may include the following (without limiting the generality or the foregoing): defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; or uncleanness. (Ord. #2016-07, May 2016)

13-505. Services of complaints or orders. Complaints or orders issued by the public officer 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 municipality, or in the absence of such newspaper, in one printed and published in Lincoln County and circulating in the municipality. 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 the county in which the structure is located, and such filing of the complaint or order shall have the same force and effect as other lis pendens notices provided by law. (Ord. #2016-07, May 2016)

13-506. Power of public officer. The public officer shall exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including the following powers, in addition to others herein granted, to:

- (1) Investigate conditions in the municipality in order to determine which structures therein are unfit for human occupation or use;
 - (2) Administer oaths, affirmations, examine witnesses and receive evidence;
 - (3) Enter upon premises for the purpose of making examinations; provided that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession;
 - (4) Appoint and fix the duties of such officers, agents and employees as the public officer deems necessary to carry out the purposes of the chapter; and
 - (5) Delegate any of such public officer's functions and powers under the chapter to such officers and agents as the public officer may designate.
- (Ord. #2016-07, May 2016)

13-507. Powers in addition. The powers conferred by this chapter are in addition and supplementary to powers conferred by any other statutes or ordinance. (Ord. #2016-07, May 2016)

TITLE 14

ZONING AND LAND USE CONTROL

CHAPTER

1. MUNICIPAL PLANNING COMMISSION.
2. ZONING ORDINANCE.

CHAPTER 1

MUNICIPAL PLANNING COMMISSION

SECTION

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

14-101. Creation and membership. Pursuant to the provisions of *Tennessee Code Annotated*, § 13-4-101 there is hereby created a municipal planning commission, hereinafter referred to as the planning commission. The planning commission shall consist of seven (7) members; two (2) of these shall be the mayor and another member of the governing body selected by the governing body; the other five (5) members shall be appointed by the mayor. At least two (2) members shall reside within the regional area but outside of the municipal boundaries of the City of Fayetteville. Except for the initial appointments, the terms of the five (5) members appointed by the mayor shall be for five (5) years each. The five (5) members first appointed shall be appointed for terms of one (1), two (2), three (3), four (4) and five (5) years respectively so that the term of one (1) member expires each year. The terms of the mayor and the member selected by the governing body shall run concurrently with their terms of office. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor.

The mayor shall appoint a representative from any of the utilities serving the city to be an advisory member of the planning commission. The term of said utility member shall run concurrently with the term of the mayor.

Each regular member of the Fayetteville Regional Planning Commission shall be paid the sum of seventy-five dollars (\$75.00) per month for their services on the board and the chairman and secretary shall be paid an additional sum of twenty-five dollars (\$25.00) and ten dollars (\$10.00) per month respectively for their services as such officers. (1995 Code, § 14-101, 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 *Tennessee Code Annotated*, title 13. (1995 Code, § 14-102)

14-103. Additional powers. 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. (1995 Code, § 14-103)

CHAPTER 2

ZONING ORDINANCE

SECTION

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

14-201. Land use to be governed by zoning ordinance. Land use within the City of Fayetteville shall be governed by an ordinance titled "Zoning Ordinance, Fayetteville, Tennessee," and any amendments thereto.¹ (1995 Code, § 14-201)

¹This ordinance adopted June 27, 1978, and any amendments thereto, are published as separate documents and are of record in the office of the city clerk.

TITLE 15

MOTOR VEHICLES, TRAFFIC AND PARKING¹

CHAPTER

1. MISCELLANEOUS.
2. EMERGENCY VEHICLES.
3. SPEED LIMITS.
4. TURNING MOVEMENTS.
5. STOPPING AND YIELDING.
6. PARKING.
7. ENFORCEMENT.
8. REGULATION OF ROADBLOCKS, PARADES, FOOT OR BICYCLE RACES, ASSEMBLIES OR OTHER EVENTS.

CHAPTER 1

MISCELLANEOUS²

SECTION

- 15-101. Adoption of state statutes.
- 15-102. Driving on streets closed for repairs, etc.
- 15-103. One-way streets.
- 15-104. Unlaned streets.
- 15-105. Laned streets.
- 15-106. Yellow lines.
- 15-107. Miscellaneous traffic-control signs, etc.
- 15-108. Unauthorized traffic-control signs, etc.
- 15-109. Presumption with respect to traffic-control signs, etc.
- 15-110. School safety patrols.
- 15-111. Driving through funerals or other processions.

¹Municipal code reference

Excavations and obstructions in streets, etc.: title 16.

²State law references

Under *Tennessee Code Annotated*, § 55-10-307, the following offenses are exclusively state offenses and must be tried in a state court or a court having state jurisdiction: driving while intoxicated or drugged, as prohibited by *Tennessee Code Annotated*, § 55-10-401; failing to stop after a traffic accident, as prohibited by *Tennessee Code Annotated*, § 55-10-101 *et seq.*; driving while license is suspended or revoked, as prohibited by *Tennessee Code Annotated*, § 55-7-116; and drag racing, as prohibited by *Tennessee Code Annotated*, § 55-10-501.

- 15-112. Clinging to vehicles in motion.
- 15-113. Riding on outside of vehicles.
- 15-114. Backing vehicles.
- 15-115. Projections from the rear of vehicles.
- 15-116. Causing unnecessary noise.
- 15-117. Vehicles and operators to be licensed.
- 15-118. Passing.
- 15-119. Damaging pavements.
- 15-120. Accidents.
- 15-121. Truck routes.
- 15-122. Loose material hauled in open truck bed.
- 15-123. Handicap parking spaces.
- 15-124. Duty to denote full time awareness and attention to operating vehicle.
- 15-125. Duty to drive at a safe speed, maintain proper lookout and keep vehicle under control.
- 15-126. Compliance with financial responsibility law required.

15-101. Adoption of state statutes. By the authority granted under *Tennessee Code Annotated*, § 16-18-302, the city adopts by reference as if fully set forth in this section, the "Rules of the Road," as codified in *Tennessee Code Annotated*, §§ 55-8-101 to 55-8-131, and §§ 55-8-133 to 55-8-180. Additionally, the city/town adopts *Tennessee Code Annotated*, §§ 55-8-181 to 55-8-193, §§ 55-9-601 to 55-9-606, § 55-12-139, § 55-21-108, and § 55-8-199 by reference as if fully set forth in this section.

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. (1995 Code, § 15-102)

15-103. 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. (1995 Code, § 15-104)

15-104. 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. (1995 Code, § 15-105)

15-105. 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. (1995 Code, § 15-106)

15-106. 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. (1995 Code, § 15-107)

15-107. 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 municipality unless otherwise directed by a police officer.

It shall be unlawful for any pedestrian or the operator of any vehicle willfully to violate or fail to comply with the reasonable directions of any police officer. (1995 Code, § 15-108)

15-108. Unauthorized traffic-control signs, etc. No person shall place, maintain, or display upon or in view of any street, any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic-control sign, signal, marking, or device or railroad sign or signal, or which attempts to control the movement of traffic or parking of vehicles, or which hides from view or interferes with the effectiveness of any

¹Municipal code references

Stop signs, yield signs, flashing signals, pedestrian control signs, traffic control signals generally: §§ 15-505 to 15-509.

official traffic-control sign, signal, marking, or device or any railroad sign or signal. (1995 Code, § 15-109)

15-109. 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 municipal authority. (1995 Code, § 15-110)

15-110 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. (1995 Code, § 15-111)

15-111. Driving through funerals or other processions. (1) Unless complying with the specific order of a law enforcement officer, it is unlawful for the operator of a motor vehicle to knowingly:

(a) Fail to yield the right of way to a properly identified funeral procession progressing across an intersection in accordance with the provisions of *Tennessee Code Annotated*, § 55-8-183(a)(1);

(b) While following a properly identified funeral procession along a two lane street, road or highway, pass or attempt to pass a properly identified funeral procession; or

(c) Drive or attempt to drive between the vehicles within a properly identified funeral procession.

(2) Each violation of this subsection is punishable by a civil penalty not to exceed fifty dollars (\$50.00).

(3) For purposes of this subsection, to be "properly identified" funeral procession, such procession must be indicated by a flashing amber light and an auditory signaling device mounted on the lead vehicle or by other properly identified escort and a flag or other appropriate marking device on each vehicle in the procession indicating that such vehicle is part of the funeral procession. (1995 Code, § 15-112)

15-112. 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.

It shall be unlawful for any person to roller skate, use a skate board or engage in recreational activities on any public street or sidewalk. (1995 Code, § 15-113, modified)

15-113. 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. (1995 Code, § 15-114)

15-114. 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. (1995 Code, § 15-115)

15-115. Projections from the rear of vehicles. Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof, the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve (12) inches square. Between one-half (1/2) hour after sunset and one-half (1/2) hour before sunrise, there shall be displayed in place of the flag a red light plainly visible under normal atmospheric conditions at least two hundred feet (200') from the rear of such vehicle. (1995 Code, § 15-116)

15-116. 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. (1995 Code, § 15-117)

15-117. Vehicles and operators to be licensed. It shall be unlawful for any person to operate a motor vehicle in violation of the "Tennessee Motor Vehicle Title and Registration Law" or the "Uniform Classified and Commercial Driver License Act of 1988."

15-118. 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 another vehicle or 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. (1995 Code, § 15-119)

15-119. Damaging pavements. No person shall operate upon any street of the municipality any vehicle, motor propelled or otherwise, which by reason of its weight or the character of its wheels or track is likely to damage the surface or foundation of the street. (1995 Code, § 15-120)

15-120. Accidents. The operator of any vehicle involved in an accident resulting in injury to any person or damage to any vehicle or other property shall immediately stop at the scene of such accident. Upon request he shall give his name, address and vehicle registration number and shall exhibit his operator's or chauffeur's license to the person injured or owning the property damaged.

If the owner of any vehicle or other property damaged is not available or known the operator shall leave in a conspicuous place on the property damaged a notice of the accident and shall leave his name and address and that of the owner of the vehicle he is driving.

When there is an injury to any person or property damage amounting to fifty dollars (\$50.00) or more immediate notice of such accident shall be given to the police department. (1995 Code, § 15-121, modified)

15-121. Truck routes. It shall be unlawful, except where reasonably necessary to make a service call or delivery, for any vehicle, trailer or combination thereof except a gooseneck trailer with a gross vehicular weight rating in excess of fifteen thousand (15,000) pounds to occupy or travel on any portion of the streets of the City of Fayetteville except for the following described truck routes.

WEST BOUND US64/SR15

Trucks traveling to points South US273 shall exit left on Thornton-Taylor Parkway (SR15, US64 By-Pass), thence in a Westerly direction, thence exit left US 64/SR15, thence in a Southerly direction, thence exit left on SR273.

Trucks traveling to points West on US 64 shall exit left on Thornton-Taylor Parkway (SR15/US64 By-Pass), thence in a Westerly direction, left US64/SR15.

Trucks traveling to points North on US431/SR273 exit left on Thornton-Taylor Parkway (SR15/US64 By-Pass), thence West along Thornton-Taylor Parkway, thence exit right on US431/SR273, and in a Northern direction.

Trucks traveling to points South on US431/231/SR10 shall exit left on Thornton-Taylor Parkway (SR15/US64 By-Pass), thence West along Thornton-Taylor Parkway, thence exit left on US431/231/SR10, and in a Southern direction.

Trucks traveling to points West on Hwy 110 - shall exit left on Thornton-Taylor Parkway (SR15/US64 By-Pass), thence Southern direction, thence exit right on State Route 110.

EAST BOUND US64/STATE ROUTE 15

Trucks traveling to points East on US64/SR15, shall exit right on Wilson Parkway (SR15/US64 By-Pass), thence in Easterly direction, thence exit right on US64/State Route 15, thence in an Easterly direction.

Trucks traveling to points North on US231/SR10, shall exit right on Wilson Parkway (SR15/US64 By-Pass), thence in an Easterly direction, thence exit right on US231/State Route 10, thence in a Northern direction.

Trucks traveling to points North on SR50 shall exit right on Wilson Parkway (State Route 15/US64 By-Pass), thence in an Easterly direction, thence exit right on US64/SR15, thence in an Easterly direction on US64/SR15, thence left on SR50 in a Northerly direction.

Trucks traveling to points North on US431/SR273 shall exit right on Wilson Parkway SR15/US64 By-Pass, thence in an Easterly direction, thence exit left on US431/SR273, thence in a Northerly direction.

Trucks traveling to points South on US431/231/SR10 shall exit right on Wilson Parkway SR15/US64 By-Pass, thence in an Easterly direction, thence exit right on US431/231/SR10 and continue in a Southerly direction.

Trucks traveling to points West on State Route 110, shall exit right on Wilson Parkway SR15/US64 By-Pass, thence in an Easterly direction, thence exit right on US431/SR10, and continue in a Southerly direction, thence exit right on State Route 110, and continue in a Southwestern direction.

NORTH BOUND US431/STATE ROUTE 10

Trucks traveling to points North on US431/State Route 273, shall continue in a Northerly direction.

Trucks traveling to points East on US64/SR15, shall exit right at Thornton-Taylor Parkway (SR15/US64 By-Pass), thence in an Easterly direction, thence exit right on US64/SR15.

Trucks traveling to points East on Hwy 50 North, shall (use above), then add... thence in an Easterly direction, thence exit left on State Route 50.

Trucks traveling to points North on US231/SR10, shall exit right at Thornton-Taylor Parkway (SR15/US64 By-Pass), thence in an easterly direction, thence exit right on US231/State Route 10.

Trucks traveling to points West on US64/SR15, shall exit left at Thornton-Taylor Parkway (SR15/US64 By-Pass), thence in a Westerly direction, thence left on US64/SR15.

Trucks traveling to points 273 South, shall exit left a Thornton-Taylor Parkway (SR15/US64 By-Pass), thence continue in a Westerly direction, exit left on State Route 273.

SOUTH BOUND US431/STATE ROUTE 50 NORTH

Trucks traveling to points South on US431/SR273, shall continue in a Southerly direction, thence, exit right SR110.

Trucks traveling to points South SR110, shall continue in a Southerly direction, thence exist right SR110.

Trucks traveling to points East on US64/SR15 shall exit left at Thornton-Taylor Parkway (SR15/US64 By-Pass), thence in an Easterly direction, thence exit right on US64/SR15.

Trucks traveling in points East on Hwy 50 shall exit left at Thornton-Taylor Parkway (SR15/US64 By-Pass), thence in an Easterly direction, thence exit left on SR50.

Trucks traveling to points North on US231/SR10 shall exit left at Thornton-Taylor (SR15/US64 By-Pass), thence in an Easterly direction, thence exit right on US231/SR10.

Trucks traveling to points West on US64/SR15, shall exit right at Thornton-Taylor Parkway (SR15/US64 By-Pass), thence in a Westerly direction, thence exit left on US64/State Route 15.

Trucks traveling to points South SR273, shall exit right at Thornton-Taylor Parkway (SR15/US64 By-Pass), thence, continue in a Westerly direction, exit left on State Route 273.

SOUTH BOUND US231/SR10

Trucks traveling to points East on US64/SR15, shall exit left on Thornton-Taylor Parkway (US64 By-Pass/SR10), thence in a Westerly direction, thence exit left on US64/SR15, and continue in an Easterly direction.

Trucks traveling to points North on SR50 shall exit left on Thornton-Taylor Parkway (US64 By-Pass/SR10), thence in a Westerly direction, thence exit left on US64/SR10, thence in a Westerly direction, thence exit left on US64/SR15 in an Easterly direction, thence exit left on SR50.

Trucks traveling to points North on US431/SR273, shall exit left on Thornton-Taylor Parkway (US64 By-Pass/SR10) thence in a Westerly direction, thence exit right on US431/SR273, and continue in a Northerly direction.

Trucks traveling to points South on US431/231/SR10, shall exit left on Thornton-Taylor Parkway (US54 By-Pass/SR10), thence in a Westerly direction, thence exit left on US431/231/SR10.

Trucks traveling to points West on SR110 shall exit left on Thornton-Taylor Parkway (US64 By-Pass/SR10), thence in a Westerly direction, thence, exit left on US431/231/SR10 and continue in a Southerly direction, thence exit right on SR110.

Trucks traveling to points West on US64/SR15, shall exit left on Thornton-Taylor Parkway (US64 By-Pass/SR10), thence in a Westerly direction, thence exit left on USD64/SR15.

Trucks traveling to points West SR273, shall exit left on Thornton-Taylor Parkway (US64 By-Pass/SR10), continue in a Westerly direction, thence exit left on SR273. (1995 Code, § 15-122)

15-122. Loose material hauled in open truck bed. Any truck, or other motor vehicle, with an open bed which is operated on any highway, road, or street open for public use in this city shall be loaded so that any loose material transported therein remains at least four inches (4") below the walls of such open bed, measured at the front, back, and sidewalls, but such load may be piled higher in the center of such open bed. Loose material includes any substance which could spill, drop off, or blow away from the open bed when the vehicle is operated. Loose material shall not include materials such as sand or salt which are purposely discharged from truck beds to clear roadways or improve traction. As used in this section the term "hauler" shall include both the owner and the driver of a vehicle and both parties shall be jointly liable. (1995 Code, § 15-123)

15-123. Handicap parking spaces. All handicap parking spaces hereinafter marked off or repainted shall be in compliance with the applicable provisions of the accessibility code. (1995 Code, § 15-124, modified)

15-124. Duty to devote full time awareness and attention to operating vehicle. It shall be unlawful for a driver of a vehicle to fail to devote full awareness and attention to operating such vehicle when such failure, under the conditions that then exist, endangers life, limb or property. (1995 Code, § 15-125)

15-125. Duty to drive at a safe speed, maintain proper lookout and keep vehicle under control. Notwithstanding any speed limit or zone in effect at the time or right-of-way rules that may be applicable, every driver of a vehicle shall, under the conditions that then exist:

- (1) Operate the vehicle at a safe speed;
- (2) Maintain a proper lookout; and
- (3) Use due care to keep the vehicle under control, and it shall be unlawful for a driver to fail to perform any or all of these measures. (1995 Code, § 15-126)

15-126. Compliance with financial responsibility law required.

- (1) This section shall apply to every vehicle subject to the state registration and certificate of title provisions.
- (2) At the time the driver of a motor vehicle is charged with any moving violation under *Tennessee Code Annotated*, title 55, chapters 8 and 10, parts 1-5, chapter 50; any provision in this title of this municipal code; or at the time of an accident for which notice is required under *Tennessee Code Annotated*, § 55-10-106, the officer shall request evidence of financial

responsibility as required by this section. In case of an accident for which notice is required under *Tennessee Code Annotated*, § 55-10-106, the officer shall request such evidence from all drivers involved in the accident, without regard to apparent or actual fault. For the purposes of this section, "financial responsibility" means:

(a) Documentation, such as the declaration page of an insurance policy, an insurance binder, or an insurance card from an insurance company authorized to do business in Tennessee, stating that a policy of insurance meeting the requirements of the Tennessee Financial Responsibility Law of 1977, compiled in *Tennessee Code Annotated*, chapter 12, title 55, has been issued;

(b) A certificate, valid for one (1) year, issued by the commissioner of safety, stating that a cash deposit or bond in the amount required by the Tennessee Financial Responsibility Law of 1977, compiled in *Tennessee Code Annotated*, chapter 12, title 55, has been paid or filed with the commissioner, or has qualified as a self-insurer under *Tennessee Code Annotated*, § 55-12-111; or

(c) The motor vehicle being operated at the time of the violation was owned by a carrier subject to the jurisdiction of the department of safety or the interstate commerce commission, or was owned by the United States, the State of Tennessee or any political subdivision thereof, and that such motor vehicle was being operated with the owner's consent.

(3) It is a civil offense to fail to provide evidence of financial responsibility pursuant to this section. Any violation is punishable by a civil penalty of up to fifty dollars (\$50.00).

(4) The penalty imposed by this section shall be in addition to any other penalty imposed by the laws of this state or this municipal code.

(5) On or before the court date, the person so charged may submit evidence of financial responsibility at the time of the violation. If it is the person's first violation of this section and the court is satisfied that such financial responsibility was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility shall be dismissed. Upon the person's second or subsequent violation of this section, if the court is satisfied that such financial responsibility was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility may be dismissed. Any charge which is dismissed pursuant to this subsection shall be dismissed without costs to the defendant and no litigation tax shall be due or collected.

CHAPTER 2**EMERGENCY VEHICLES****SECTION**

15-201. Authorized emergency vehicles defined.

15-202. Operation of authorized emergency vehicles.

15-203. Following emergency vehicles.

15-204. Running over fire hoses, etc.

15-201. Authorized emergency vehicles defined. Authorized emergency vehicles shall be fire department vehicles, police vehicles, and such ambulances and other emergency vehicles as are designated by the chief of police. (1995 Code, § 15-201)

15-202. Operation of authorized emergency vehicles.¹ (1) The driver of an authorized emergency vehicle, when responding to an emergency call, or when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, subject to the conditions herein stated.

(2) The driver of an authorized emergency vehicle may 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 five hundred feet (500') 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. (1995 Code, § 15-202)

¹Municipal code reference

Operation of other vehicle upon the approach of emergency vehicles:
§ 15-501.

15-203. Following emergency vehicles. No driver of any vehicle shall follow any authorized emergency vehicle apparently travelling in response to an emergency call closer than five hundred feet (500') or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (1995 Code, § 15-203)

15-204. Running over fire hoses, etc. It shall be unlawful for any person to drive over any hose lines or other equipment of the fire department except in obedience to the direction of a fireman or police officer. (1995 Code, § 15-204)

CHAPTER 3

SPEED LIMITS

SECTION

- 15-301. In general.
- 15-302. At intersections.
- 15-303. In school zones.
- 15-304. In congested areas.

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. (1995 Code, § 15-301)

15-302. At intersections. It shall be unlawful for any person to operate or drive a motor vehicle through any intersection at a rate of speed in excess of fifteen (15) miles per hour unless such person is driving on a street regulated by traffic-control signals or signs which require traffic to stop or yield on the intersecting streets. (1995 Code, § 15-302)

15-303. In school zones. Generally, pursuant to *Tennessee Code Annotated*, § 55-8-153, special speed limits in school zones shall be enacted based on an engineering investigation; shall not be less than fifteen (15) miles per hour; and shall be in effect only when proper signs are posted with a warning flasher or flashers in operation. It shall be unlawful for any person to violate any such special speed limit enacted and in effect in accordance with this paragraph.

When the governing body has not established special speed limits as provided for above, any person who shall drive at a speed exceeding fifteen (15) miles per hour when passing a school during a recess period when a warning flasher or flashers are in operation, or during a period of ninety (90) minutes before the opening hour of a school or a period of ninety (90) minutes after the closing hour of a school, while children are actually going to or leaving school, shall be prima facie guilty of reckless driving. (1995 Code, § 15-303, modified)

15-304. In congested areas. It shall be unlawful for any person to operate or drive a motor vehicle through any congested area at a rate of speed in excess of any posted speed limit when such speed limit has been posted by authority of the municipality. (1995 Code, § 15-304)

CHAPTER 4

TURNING MOVEMENTS**SECTION**

15-401. Generally.

15-402. Right turns.

15-403. Left turns on two-way roadways.

15-404. Left turns on other than two-way roadways.

15-405. U-turns.

15-401. Generally. 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 (1995 Code, § 15-401)

15-402. Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right hand curb or edge of the roadway. (1995 Code, § 15-402)

15-403. Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of the intersection of the center line of the two (2) roadways. (1995 Code, § 15-403)

15-404. Left turns on other than two-way roadways. At any intersection where traffic is restricted to one direction on one (1) or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left hand lane lawfully available to traffic moving in such direction upon the roadway being entered. (1995 Code, § 15-404)

15-405. U-turns. U-turns are prohibited except where permitted by posted signs or where the vehicle making the U-turn can be seen by the driver of any other vehicle approaching from either direction within five hundred feet (500'). (1995 Code, § 15-405)

¹State law reference

Tennessee Code Annotated, § 55-8-143.

CHAPTER 5**STOPPING AND YIELDING****SECTION**

- 15-501. Upon approach of authorized emergency vehicles.
- 15-502. When emerging from alleys, etc.
- 15-503. To prevent obstructing an intersection.
- 15-504. At "stop" signs.
- 15-505. At "yield" signs.
- 15-506. At traffic-control signals generally.
- 15-507. At flashing traffic-control signals.
- 15-508. At pedestrian control signals.
- 15-509. Stops to be signaled.

15-501. Upon approach of authorized emergency vehicles.¹ Upon the immediate approach of an authorized emergency vehicle making use of audible and/or visual signals meeting the requirements of the laws of this state, or of a police vehicle properly and lawfully making use of an audible signal only, 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. (1995 Code, § 15-501)

15-502. When emerging from alleys, etc. The drivers of all vehicles emerging from alleys, parking lots, driveways, or buildings shall stop such vehicles immediately prior to driving onto 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. (1995 Code, § 15-502)

15-503. To prevent obstructing an intersection. No driver shall enter any intersection or marked crosswalk unless there is sufficient space on the other side of such intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of traffic in or on the intersecting street or crosswalk. This provision shall be effective notwithstanding any traffic-control signal indication to proceed. (1995 Code, § 15-503)

15-504. 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

¹Municipal code reference

Special privileges of emergency vehicles: title 15, chapter 2.

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. (1995 Code, § 15-505)

15-505. 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. (1995 Code, § 15-506)

15-506. 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 none, then before entering the intersection and shall remain standing until green or "Go" is shown alone. Provided, however, that a right turn on a red signal shall be permitted at all intersections within the city, provided that the prospective turning car comes to a full and complete stop before turning and that the turning car yields the right-of-way to pedestrians and cross traffic traveling in accordance with their traffic signal. However, said turn will not endanger other traffic lawfully using said intersection. A right turn on red shall be permitted at all intersections except those clearly marked by a "No Turns On Red" sign, which may be erected by the 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 unless authorized so to do by a pedestrian "Walk" signal.

(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 unless authorized so to do by a pedestrian "Walk" signal.

(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. (1995 Code, § 15-507)

15-507. At flashing traffic-control signals. Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal placed or erected by the municipality it shall require obedience by vehicular traffic as follows:

(1) **Flashing red (stop signal).** When a red lens is illuminated with intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(2) **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. (1995 Code, § 15-508, modified)

15-508. At pedestrian control signals. Wherever special pedestrian control signals exhibiting the words "Walk" or "Wait" or "Don't Walk" have been placed or erected by the municipality, such signals shall apply as follows:

(1) **Walk.** Pedestrians facing such signal may proceed across the roadway in the direction of the signal and shall be given the right-of-way by the drivers of all vehicles.

(2) **Wait or Don't Walk.** No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his crossing on the walk signal shall proceed to the nearest sidewalk or safety zone while the wait signal is showing. (1995 Code, § 15-509)

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. (1995 Code, § 15-510)

¹State law reference
Tennessee Code Annotated, § 55-8-143.

CHAPTER 6

PARKING

SECTION

- 15-601. Generally.
- 15-602. Angle parking.
- 15-603. Occupancy of more than one space.
- 15-604. Where prohibited.
- 15-605. Loading and unloading zones.
- 15-606. Presumption with respect to illegal parking.
- 15-607. Loading zone regulations.

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 municipality shall be so parked that its right wheels are approximately parallel to and within eighteen inches (18") of the right edge or curb of the street. On one-way streets where the municipality has not placed signs prohibiting the same, vehicles may be permitted to park on the left side of the street, and in such cases the left wheels shall be required to be within eighteen inches (18") of the left edge or curb of the street.

Notwithstanding anything else in this code to the contrary, no person shall park or leave a vehicle parked on any public street or alley within the fire limits between the hours of 1:00 A.M. and 5:00 A.M. or on any other public street or alley for more than seventy-two (72) consecutive hours without the prior approval of the chief of police.

Furthermore, no person shall wash, grease, or work on any vehicle, except to make repairs necessitated by an emergency, while such vehicle is parked on a public street. (1995 Code, § 15-601)

15-602. Angle parking. On those streets which have been signed or marked by the municipality for angle parking, no person shall park or stand a vehicle other than at the angle indicated by such signs or markings. No person shall angle park any vehicle which has a trailer attached thereto or which has a length in excess of twenty-four feet (24'). (1995 Code, § 15-602)

15-603. Occupancy of more than one space. No person shall park a vehicle in any designated parking space so that any part of such vehicle occupies more than one (1) such space or protrudes beyond the official markings on the street or curb designating such space unless the vehicle is too large to be parked within a single designated space. (1995 Code, § 15-603)

15-604. Where prohibited. No person shall park a vehicle in violation of any sign placed or erected by the municipality, nor:

- (1) On a sidewalk.
 - (2) In front of a public or private driveway.
 - (3) Within an intersection or within fifteen feet (15') thereof.
 - (4) Within fifteen feet (15') of a fire hydrant.
 - (5) Within a pedestrian crosswalk.
 - (6) Within twenty feet (20') of the driveway entrance to any fire station, and on the side of the street opposite the entrance to any fire station within seventy-five feet (75') of the entrance.
 - (7) Alongside or opposite any street excavation or obstruction when other traffic would be obstructed.
 - (8) On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
 - (9) Upon any bridge.
 - (10) Alongside any curb painted yellow or red by the municipality.
- (1995 Code, § 15-604, modified)

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 municipality as a loading and unloading zone. (1995 Code, § 15-605)

15-606. Presumption with respect to illegal parking. When any unoccupied vehicle is found parked in violation of any provision of this chapter, there shall be a prima facie presumption that the registered owner of the vehicle is responsible for such illegal parking. (1995 Code, § 15-608)

15-607. Loading zone regulations. The city administrator with the approval of the police and fire committee shall have the right to adopt regulations concerning loading zone of vehicles on the public streets of the city, the removal by towing of same, the issuance of loading zone permits, and the cost thereof. A list of said regulations shall be on file at the municipal building and shall be open to public inspection during reasonable business hours. Signs shall be posted informing the public of no loading zone or limited loading zone areas. (1995 Code, § 15-609)

CHAPTER 7

ENFORCEMENT

SECTION

- 15-701. Issuance of traffic citations.
- 15-702. Failure to obey citation.
- 15-703. Illegal parking.
- 15-704. Impoundment of vehicles.
- 15-705. Violations and penalty.

15-701. Issuance of traffic citations.¹ When a police officer halts a traffic violator other than for the purpose of giving a warning, and does not take such person into custody under arrest, he shall take the name, address, and operator's license number of said person, the license number of the motor vehicle involved, and such other pertinent information as may be necessary, and shall issue to him a written traffic citation containing a notice to answer to the charge against him in the 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. (1995 Code, § 15-701)

15-702. Failure to obey citation. It shall be unlawful for any person to violate his written promise to appear in court after giving said promise to an officer upon the issuance of a traffic citation, regardless of the disposition of the charge for which the citation was originally issued. (1995 Code, § 15-702)

15-703. Illegal parking. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, the officer finding such vehicle shall take its license number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a citation for the driver and/or owner to answer for the violation within ten (10) days during the hours and at a place specified in the citation. (1995 Code, § 15-703)

15-704. 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

¹State law reference

Tennessee Code Annotated, § 7-63-101 et seq.

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. Such an impounded vehicle shall be stored until the owner claims it, gives satisfactory evidence of ownership, and pays all applicable fines and costs. The fee for impounding a vehicle shall be twenty dollars (\$20.00) and a storage cost of two dollars (\$2.00) per day shall also be charged. (1995 Code, § 15-704)

15-705. Violations and penalty. Any violation of this title shall be a civil offense punishable as follows:

- (1) Traffic citations. Traffic citations shall be punishable by a civil penalty up to fifty dollars (\$50.00) for each separate offense; and
- (2) Parking violations. For parking violations, the offender may waive his/her right to a judicial hearing and have the charges disposed of out of court but the fines shall be ten dollars (\$10.00) within ten (10) days and fifteen dollars (\$15.00) thereafter. (1995 Code, § 15-705)

CHAPTER 8

**REGULATION OF ROADBLOCKS, PARADES, FOOT
OR BICYCLE RACES, ASSEMBLIES AND OTHER EVENTS****SECTION**

15-801. Roadblocks.

15-802. Parades, foot or bicycle races, assembly or other events.

15-803. Unlawful assembly.

15-801. Roadblocks. It shall be unlawful for any individual, group, club or organization to hold a roadblock for the solicitation of contributions on the streets of the City of Fayetteville without securing a permit to conduct such activities. The granting or denial of such permits shall be regulated as follows:

(1) Any individual, group or organization seeking to conduct a roadblock for the solicitation of contributions shall apply to the chief of police for a roadblock solicitation permit. In considering whether to grant such applications, the chief of police shall following the criteria set out in the City of Fayetteville Municipal Code in § 9-302. In the event an application is denied, the applicant may appeal the denial pursuant to the terms of § 9-303.

(2) At the time the application is presented, the applicant shall provide a current driver's license as part of the application.

(3) The chief of police and/or the city administrator shall have the authority and responsibility to deny or revoke any roadblock solicitation permit if, in his or her opinion, conditions are unsafe for the conduction of such activities, violation(s) of any ordinance or event rules or regulations have occurred or for any other reason he or she deems it in the best interest of the community to do so.

(4) Applications for such permits shall not be made more than twelve (12) months prior to the date of the proposed event.

(5) The chief of police shall issue no more than two (2) roadblock permits in any month and no more than eighteen (18) in any calendar year.

(6) Permitted roadblocks shall be operated only between the hours of 9:00 A.M. and 12:00 P.M. (noon) and shall be limited to the following intersections:

(a) Intersection of South Main Avenue (Huntsville Highway) and Thornton Taylor Parkway/Wilson Parkway.

(b) Intersection of Winchester Highway and Thornton Taylor Parkway.

(c) Intersection of North Main Avenue and Washington Street.

(d) Intersection of West College Street and Lincoln A venue.

(7) No one younger than eighteen (18) years of age shall be permitted to participate in any roadblock in any capacity. No children or pets shall be allowed to participate in any roadblock.

(8) Roadblock participants shall wear bright, highly visible clothing or vests prescribed by the chief of police.

(9) Solicitors, including all street sale vendors, shall operate in the legal rights-of-way of intersections where activities are being conducted.

(10) In the event an emergency vehicle approaches an intersection where a roadblock activity is being conducted, all roadblock participants shall exit the intersection until such time that the emergency vehicle has passed through the intersection and resumption of roadblock activities can be done in a safe manner without interference with such emergency vehicle. (Ord. #2016-03, Jan. 2016)

15-802. Parades, foot or bicycles races, assembly or other events.

It shall be unlawful for any individual, group or organization to hold any parade, foot or bicycle race, assembly or other event on the public streets of the City of Fayetteville without securing a permit to conduct such activities. The granting or denial of such permits shall be regulated as follows:

(1) Any group, club or organization seeking to conduct a parade, foot or bicycle race, assembly or other activity shall obtain an application from the city administrator and shall fully complete said application and return it to the city administrator or a member of the administrative staff of the City of Fayetteville.

(2) The city administrator and/or the chief of police shall be authorized to issue permits for parades, foot or bicycle races, assemblies or other such events.

(3) Permits shall not be issued for multiple events occurring at the same time unless in the opinion of the city administrator and chief of police the events can be conducted without interfering with each other, without unduly burdening the Fayetteville Police Department and/or unduly interfering with traffic. In the event multiple applications are submitted for a particular date, priority shall be given to events being conducted by the City of Fayetteville, its various departments, the Fayetteville-Lincoln County Chamber of Commerce or Fayetteville Main Street, Inc.

(4) In the event an application is denied, the applicant may appeal to the board of mayor and aldermen by providing written notice of the applicant's intention to do so to the city administrator.

(5) At the time the application is presented, the applicant shall provide a current driver's license as part of the application.

(6) The chief of police and/or the city administrator shall have the authority and responsibility to deny or revoke any parade or event permit if, in his or her opinion, conditions are unsafe for the conduction of such activities, violation(s) of any ordinance or event rules or regulations have occurred or for any other reason he or she deems it in the best interest of the community to do so.

(7) Any group, club or organization obtaining a permit under this section shall be responsible for immediately cleaning all litter left on the streets, sidewalks and surrounding areas as a result of the activity, and the failure to do so shall be unlawful. In the event a group, club or organization fails to clean litter associated with its activity and it becomes necessary for employees of the City of Fayetteville to conduct such cleaning activities, the group, club or organization that failed to clean such litter shall be liable to the City of Fayetteville for the costs associated with having its employees perform such cleaning. Failure of a group, club or organization to adequately clean litter shall be an appropriate consideration in future applications by such groups.

(8) Applications for such permits shall not be made more than twelve (12) months prior to the date of the proposed event.

(9) No more than one (1) permit per year shall be issued for a specific event to any group, club or organization. (Ord. #2016-03, Jan. 2016)

15-803. Unlawful assembly. It shall be unlawful for any group or assembly of persons to stand, congregate or remain upon any public street, sidewalk or entrance to any public or private building or structure in the City of Fayetteville in such a way to obstruct, prevent or interfere with the free or unobstructed use of said streets, sidewalks or entrance by other persons. It shall be unlawful for any person to fail or refuse to move or disperse upon being ordered to do so by any police officer of the City of Fayetteville or other peace officer. (Ord. #2016-03, Jan. 2016)

TITLE 16

STREETS AND SIDEWALKS, ETC¹

CHAPTER

1. MISCELLANEOUS.
2. EXCAVATIONS AND CUTS.

CHAPTER 1

MISCELLANEOUS

SECTION

- 16-101. Obstructing streets, alleys, or sidewalks prohibited.
- 16-102. Trees projecting over streets, etc., regulated.
- 16-103. Trees, etc., obstructing view at intersections prohibited.
- 16-104. Gates or doors opening over streets, alleys, or sidewalks prohibited.
- 16-105. Obstruction of drainage ditches.
- 16-106. Animals and vehicles on sidewalks.
- 16-107. Property numbers.
- 16-108. Shrubby, trees, or hedges on right-of-way.

16-101. Obstructing streets, alleys, or sidewalks prohibited. No person shall use or occupy any portion of any public street or alley for the purpose of storing, selling, or exhibiting any goods, wares, merchandise, or materials or washing or servicing vehicles except in an emergency.

No person shall use or occupy any portion of any sidewalk or right-of-way for the purpose of storing, selling or exhibiting any goods, wares, merchandise, or materials except that merchants having a business license or others permitted by such merchants to do so may use that portion of the sidewalk or right-of-way lying between any building they own or rent and the street for such purposes so long as such use will not substantially impede the flow of pedestrian traffic. (1995 Code, § 16-101, modified)

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, or sidewalk at a height of less than fourteen feet (14'). (1995 Code, § 16-102)

¹Municipal 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, hedge, or other obstruction which prevents persons driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. (1995 Code, § 16-103, modified)

16-104. 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. (1995 Code, § 16-106)

16-105. 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. (1995 Code, § 16-107)

16-106. 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 to interfere with or inconvenience pedestrians using the sidewalk. It shall also be unlawful for any person knowingly to allow any minor under his control to violate this section. (1995 Code, § 16-109)

16-107. Property numbers. All persons, firms, corporations or other legal entities constructing new structures in the City of Fayetteville shall obtain a property address from The Fayetteville-Lincoln County Emergency Communication District.

The Fayetteville-Lincoln County Emergency Communication District shall advise each person or entity applying for a property address to post such number in a conspicuous place on the structure within thirty (30) days of occupancy of the structure.

If the owner or occupant of any property required to be numbered by this section shall neglect for a period of twenty (20) days to duly attach and maintain the proper number on such property, the city clerk shall serve upon him a notice requiring such owner or occupant to number the same properly and if he neglects to do so for a period of ten (10) days after the service of such notice, he shall be deemed to have violated this section. (1995 Code, § 16-110, modified)

16-108. Shrubbery, trees, or hedges on right-of-way. No person on the public right-of-way shall plant or maintain shrubbery, trees or hedges without permission of the city, which permission shall be evidenced by a permit issued by the building official only after determining that said shrubbery, trees or hedges will not obstruct the vision of persons using driveways, alleys, sidewalks or public streets. Property owners shall take reasonable steps to prevent vegetation lawfully planted on their properties from growing in such a

manner that it blocks or otherwise interferes with streets or sidewalks in the city. Said permission may be revoked at any time by the building official on fifteen (15) days' notice and no person shall acquire any property rights by virtue of said permit. (1995 Code, § 16-111, modified)

CHAPTER 2

EXCAVATIONS AND CUTS¹

SECTION

- 16-201. Permit required.
- 16-202. Applications.
- 16-203. Deposit or bond.
- 16-204. Manner of excavating--barricades and lights--temporary sidewalks.
- 16-205. Restoration of streets, etc.
- 16-206. Insurance.
- 16-207. Time limits.
- 16-208. Supervision.
- 16-209. Driveway curb cuts.

16-201. Permit required. It shall be unlawful for any person, firm, corporation, association, or others, other than the City of Fayetteville or Fayetteville Public Utilities, 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 clerk is open for business, and said permit shall be retroactive to the date when the work was begun. (1995 Code, § 16-201, modified)

16-202. Applications. Applications for such permits shall be made to the city clerk, or such person as he may designate to receive such applications, and shall state thereon the location of the intended excavation or tunnel, the size thereof, the purpose thereof, the person, firm, corporation, association, or others doing the actual excavating, the name of the person, firm, corporation, association, or others for whom the work is being done, and shall contain an agreement that the applicant will comply with all ordinances and laws relating

¹State law reference

This chapter was patterned substantially after the ordinance upheld by the Tennessee Supreme Court in the case of *City of Paris, Tennessee v. Paris-Henry County Public Utility District*, 207 Tenn. 388, 340 S.W.2d 885 (1960).

to the work to be done. Such application shall be rejected or approved by the city clerk within twenty-four (24) hours of its filing. (1995 Code, § 16-202)

16-203. Deposit or bond. A permit shall not be issued unless and until the applicant therefore has deposited with the city clerk a cash deposit in the sum of one thousand dollars (\$1,000.00) for any excavation on public property including all public rights-of-way, to insure the property restoration of the ground, except that where the amount of the deposit is clearly inadequate to cover the cost of restoration, the city clerk 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 municipality of relaying the surface of the ground or pavement, and of making the refill if this is done by the municipality or as 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 cash deposit the applicant may deposit with the city clerk a surety bond in the amount of one thousand dollars (\$1,000.00) to cover the costs to the municipality if the applicant fails to make proper restoration. (1995 Code, § 16-204)

16-204. Manner of excavating--barricades and lights--temporary sidewalks. Any person, firm, corporation, association, or others making any excavation or tunnel shall do so according to the terms and conditions of the application and permit authorizing the work to be done. Sufficient and proper barricades and lights shall be maintained to protect persons and property from injury by or because of the excavation being made. If any sidewalk is blocked by any such work, a temporary sidewalk shall be constructed and provided which shall be safe for travel and convenient for users. (1995 Code, § 16-205)

16-205. Restoration of streets, etc. Any person, firm, corporation, association, utility or others making any excavation in any street, alley, or public place in this municipality shall restore said street, alley, or public place to the specifications hereinafter set out, and shall be paid for by such person, firm, corporation, association, utility or others promptly upon the completion of the work for which the excavation was made. The city may authorize a duly licensed contractor who is performing excavations on the streets, alleys or public ways to complete the surfacing to the city's specifications, provided the contractor guarantees in writing the surface for one (1) year. In case of unreasonable delay in completion of work, the city shall give notice to the person, firm, corporation, association, utility or others that unless the excavation is refilled properly, within a specified period of time, the municipality will do the repair or contract said repair and charge the expense to the particular party.

Street repair specifications are as follows:

(1) From six inches (6") above tops of pipe or minimum standards up to within six inches (6") of finished grade, backfill with crushed stone. Dispose of all excavated materials that are not replaced as backfill.

(2) Within sixty (60) days settling, the contractor shall fill trench or hole with concrete.

(3) Concrete will be used in all paved areas: A six inch (6") deep slab in the concrete trench width poured to the existing elevation. Concrete shall be three thousand (3,000) psi ready mix type conforming to ASTM specification C94, composed of Portland cement, sand and coarse aggregate, mixed with clear water.

(4) Barricades or metal plates shall be placed around or over all holes until concrete can withstand traffic.

(5) Concrete shall be level with existing surfaces. The city shall be notified of all cuts. (Ord. #2014-05, March 2014)

16-206. 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 recorder in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than three hundred thousand dollars (\$300,000.00) for each person, and not less than seven hundred thousand dollars (\$700,000.00) for each accident, and for property damages not less than one hundred thousand dollars (\$100,000.00) for each accident.

16-207. 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 municipality if the municipality 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 clerk. (1995 Code, § 16-208)

16-208. Supervision. The city clerk or his designee 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 municipality 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. (1995 Code, § 16-209)

16-209. Driveway curb cuts. No one shall cut, build, or maintain a driveway across a curb or sidewalk without first obtaining a permit from the city clerk. 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 feet (35') 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 feet (10') in width at its outer or street edge shall be provided. Driveway aprons shall not extend out into the street. (1995 Code, § 16-210)

TITLE 17

REFUSE AND TRASH DISPOSAL¹

CHAPTER

1. LITTER CONTROL AND SANITATION REGULATIONS.
2. PRIVATE COLLECTION OF BULK REFUSE.
3. REFUSE AND TRASH DISPOSAL.

CHAPTER 1

LITTER CONTROL AND SANITATION REGULATIONS.

SECTION

- 17-101. Title and definitions.
- 17-102. Moving violations.
- 17-103. Stationary violations.
- 17-104. Stationary violations; litter generated from handling solid waste.
- 17-105. Collection fees and special rules.
- 17-106. Litter receptacles.
- 17-107. Unauthorized use of receptacles.
- 17-108. Disposal of material by contractors.

17-101. Title and definitions. (1) Title. This chapter shall be known and may be cited as the City of Fayetteville Litter Control and Sanitation Ordinance.

(2) Definitions. (a) "Director" means the director of public works.

(b) "Dumpster" means four (4) to eight (8) cubic yard receptacle used by the collection agency to pick up bulk material.

(c) "Institution" means any public or private establishment which educates, instructs, treats for health purposes, or otherwise performs a service or need for the community, region, state or nation.

(d) "Litter" means all waste materials including, but not limited to, bottles, glass, crockery, cans, scrap metal, paper, plastic, rubber, garbage, offal, waste building material at construction sites, disposable packages or containers thrown or deposited as prohibited herein, but not including the disposed waste of the primary processes of mining, logging, saw-milling, framing or manufacturing.

¹Municipal code reference

Property maintenance regulations: title 13.

(e) "Litter receptacle" means a container with a capacity of not less than twenty (20) gallons, constructed and placed for use as a depository for litter.

(f) "Person" means any natural person, corporation, partnership, association, firm, receiver, guardian trustee, executor, administrator, fiduciary, or representative, or group of individuals or entities of any kind.

(g) "Private property" means property owned by any person as defined herein, including but not limited to yards, grounds, driveways, entrance or passageways, parking areas, storage areas, any body of water, vacant land, and recreational facilities.

(h) "Public property" means any area that is used or held out for use by the public, whether owned or operated by public or private interests including, but not limited to, highways, streets, alleys, parks, recreation areas, sidewalks, medians, lakes, rivers, streams, ponds, or other bodies of water.

(i) "Vehicle" means every device capable of being moved upon a public highway or public waterway and in, upon, or by which any person or property may be transported or drawn upon a public highway or public waterway, and shall also include any watercraft, boat, ship, vessel, barge, or other floating craft, except devices moved by human power, or used exclusively upon stationary rails or tracts, or used exclusively for agricultural purposes and not licensed pursuant to state law, which is not operated on any public highway for purposes other than crossing such public highway, or along such highway between two (2) tracts of the owner's land. (1995 Code, § 17-101)

17-102. Moving violations. (1) Littering prohibited; penalties. (a) It shall be unlawful for any person to drop, deposit, discard, or otherwise dispose of litter in or upon any public or private property within City of Fayetteville including but not restricted to any street, sidewalk, park, body of water, vacant or occupied lot, except in public receptacles, or in authorized private receptacles provided for public use, or in an area designated by the state department of health as a permitted disposal site.

(b) When a violation of the provisions of this section has been observed by any person, and the matter dumped or disposed of in the highway, right-of-way, property adjacent to such highway or right-of-way, or private property has been ejected from a motor vehicle, the owner or operator of such motor vehicle shall be presumed to be the person ejecting such trash, garbage, refuse or other unsightly matter; provided, however, that such presumption shall be rebuttable by competent evidence.

(2) Uncovered vehicles; escape of load. (a) No vehicle shall be driven or moved on any highway unless such vehicle is constructed or loaded to prevent any of its load from dropping, sifting, leaking, or otherwise

escaping therefrom. Provided, however, that sand or any substance to increase traction or water or other substance may be applied on a roadway in the cleaning or maintaining of such roadway by the state or local government agency having such responsibilities.

(b) No vehicle used to transport litter or other items likely to fall or be blown from such vehicle, shall be driven or moved, stopped, or parked on any highway unless such vehicle is covered to prevent its contents from blowing, dropping, or falling from such vehicle.

(c) Any person operating a vehicle from which any glass or objects have fallen or escaped, which could cause an obstruction or damage a vehicle or otherwise endanger travelers on such public property, shall immediately cause the public property to be cleaned of all glass or objects and shall pay any costs therefor.

(3) Enforcement of litter laws; prosecution; presumption. (a) The director of public works, the health officer and the building official are hereby empowered to issue citations to persons violating any provision of this chapter, and may serve and execute all warrants, and other process, issued by the court in enforcing the provisions of this chapter. In addition, mailing by certified mail of such process to his last known place of residence shall be deemed as personal service upon the person charged, for the purpose of this chapter.

(b) Prosecution for a violation of any provision of this chapter may be initiated by any law enforcement officer who witnesses such offense or who discovers an article of litter bearing a person's name or address on the property of another, on any public highway, street, or road, upon a public park or recreation area, or upon any other public property except property that is designated for solid waste disposal. Such prosecution may be initiated by any private citizen, who witnesses an offense or discovers evidence.

(c) Any article of litter bearing a person's name or address, found on the private property of another, or on any public property as designated herein, shall be presumed to be the property of such person whose name or address appears thereon, and that such person placed or caused to be placed such article of litter; provided, however, that such presumption shall be rebuttable by competent evidence.

(d) Whenever any person is arrested for a violation of this chapter, the arresting law enforcement officer shall take the name and address of such person and issue a complaint, summons, or otherwise notify him in writing to appear at a time and place to be specified in such complaint or notice. Such officer shall thereupon and upon the giving by such person of his written promise to appear at such time and place forthwith, release him from custody. Any person refusing to give such written promise to appear shall be prosecuted as in the manner of other violations of chapters.

(e) Upon the failure of such person to comply as herein provided, the clerk of the court named in such summons shall summons such person to appear in such court to answer the charge of the violation of this chapter. (1995 Code, § 17-102, modified)

17-103. Stationary violations. (1) Areas surrounding commercial establishments and institutions. It shall be the duty of each proprietor and each operator of any business, industry, or institution to keep the adjacent and surrounding area clear and free of litter. These areas include, but are not restricted to, public and private sidewalks, roads, and alleys; grounds; parking lots; loading and unloading areas; and all vacant lots which are owned or leased by said establishment or institution.

(2) Keeping residential property clean. It shall be the duty of each residential property owner and tenant to keep all exterior private property free of litter. These areas shall include, but not be restricted to, sidewalks, alleys, and driveways; yards and grounds; fences, walls, and property lines; drainages; and vacant lots in residential areas.

(3) Keeping sidewalks clean. Each owner, agent, occupant, or lessee whose property faces on sidewalks, or strips between street and sidewalk, shall be responsible for keeping said sidewalk and strips free of litter. Also immediately after a snow or sleet, occupants are required to remove all accumulated snow or ice from sidewalk.

(4) Sweeping litter into the street. It shall be unlawful to blow, sweep or push litter or grass clippings from sidewalks into streets. Such litter shall be deposited in a proper receptacle which shall be covered to prevent scattering by wind and animal.

(5) Construction and demolition sites. (a) It shall be unlawful for any owner, agent, or contractor to permit the accumulation of litter before, during, or after completion of any construction or demolition project.

(b) It shall be the duty of the owner, agent, or contractor in charge of a construction or development site to furnish litter receptacles and to collect and contain to prevent scattering other bulk litter on a daily basis. All litter shall be removed from such site not less than once a week.

(6) Handbills and advertising material. It shall be unlawful for any person distributing commercial handbills, leaflets, flyers, or any other advertising and information material to distribute material in such a manner that it litters either public or private property. (1995 Code, § 17-103, modified)

17-104. Stationary violations; litter generated from handling solid waste. (1) Solid waste containerization. (a) Each owner, occupant or other responsible person using or occupying any building or other premises within the city where refuse accumulates or is likely to accumulate, shall provide and keep covered an adequate number of refuse containers.

The refuse containers shall be rodent and insect proof, shall be strong, durable, or galvanized steel or plastic construction, and have attached handles for easy lifting. They shall each have a capacity of not less than twenty (20) nor more than thirty-two (32) gallons, except that this maximum capacity shall not apply to larger containers which the city handles mechanically. Furthermore, except for containers which the city handles mechanically, the combined weight of any refuse container and its contents shall not exceed seventy-five (75) pounds. No refuse shall be placed in a refuse container until such refuse has been drained of all free liquids. Containers loaded with wood, concrete blocks, brick or heavy metal will not be emptied. Plastic bags may be used in place of metal or plastic containers. Dumpsters may be used provided they are placed in a location mutually agreeable to the occupant and the director. Box pens shall be kept clean by occupant and loose materials are the responsibility of the occupant.

(b) Excess material as a result of special circumstances must be placed in plastic bags.

(c) Items too large to fit into containers, such as, but not limited to, household appliances, furniture and mattresses, shall be placed curbside.

(2) Proper litter receptacles or solid waste containers. (a) Any receptacle or container which does not conform to this chapter shall be replaced by owner or user of said receptacle or container upon written notice from the department of public works. Failure to do so within five (5) days shall constitute a violation of this section, and each day thereafter shall constitute a separate violation.

(b) In no case will it be the responsibility of the refuse collecting agency of the city to shovel or pick up from the ground any accumulations of refuse with the exception of intact cardboard boxes which may be placed neatly and safely around said refuse containers.

(c) Where alleys are used by the city refuse collectors, containers shall be placed on or within three feet (3') of the alley line in such a position as not to intrude upon the traveled portion of the alley. Where streets are used by the city's refuse collectors, containers shall be placed adjacent to and back of the curb, or adjacent to and back of the ditch or street line if there be no curb, at such times as shall be scheduled by the city for the collection of refuse therefrom.

(d) No unauthorized person shall uncover, rifle, pilfer, dig into, turn over, or in any other manner disturb or use any refuse container belonging to another. This section shall not be construed to prohibit the use of public anti-litter cans for the deposit of refuse commonly recognized as litter.

(e) Except as otherwise herein provided, only the city shall engage in the business of collection, removing or disposing of refuse

within the corporate limits. The city may provide such service either with its own forces or by contractors. Industrial and commercial locations may contract their own collection service, however, the city must be notified of collection agency and length of contract.

(f) The director is authorized and directed to prepare schedules for regular collection of refuse throughout the city. Refuse shall be collected at least twice weekly and otherwise as often as reasonably necessary to protect against health and fire hazards.

(3) Indiscriminate dumping or discarding of litter and solid waste.

(a) It shall be unlawful for any person to discard or dump along any street or road, on or off the right-of-way, any household or commercial solid waste, rubbish, refuse, junk, vehicle or vehicle parts, rubber tires, appliances, furniture, and any other material or equipment, on public or private property, except by written consent of the owner of said private property, or except in receptacles provided for public use for the deposit of said material, or except in an area designated by the state department of health as a permitted disposal site.

(b) Any article of litter bearing a person's name or address found on the private property of another, or on any public property, shall be presumed to be the property of such person whose name or address appears thereon, and that such person placed or caused to be placed such article of litter; provided however, that such presumption shall be rebuttable by competent evidence. (1995 Code, § 17-104)

17-105. Collection fees and special rules. (1) Service fees for collection, removal and disposal. Monthly fees for the collection, removal and disposal of refuse are based on the number of carts utilized at each residence or commercial establishment with a one (1) cart minimum charge for each residence or commercial establishment with an active electrical meter according to the records of Fayetteville Public Utilities. The following monthly fees are established for the collection, removal and disposal of refuse:

RESIDENTIAL

Per household	\$ 14.00
Per apartment	\$ 14.00
Each additional cart	\$ 10.00

COMMERCIAL AND INDUSTRIAL

1 Cart	Twice/week	\$ 38.00
	Once/week	\$ 19.00
2 Carts	Twice/week	\$ 68.00
	Once/week	\$ 34.00
3 Carts	Twice/week	\$ 98.00
	Once/week	\$ 49.00
4 Carts	Twice/week	\$128.00

	Once/week	\$ 64.00
6 Carts	Twice/week	\$188.00
	Once/week	\$ 94.00

Churches will be charged the commercial fees
Hardship rate will be ten dollars (\$10.00) per month

The public works director will work with commercial establishments to provide the collection services they need per week at the rate listed above. The public works director may change routes and adjust rates as needed to conform to the schedule listed above.

Users who are aggrieved by the sanitation fee(s) assessed them may submit a request for a fee reduction or waiver to the city administrator who shall place the matter on the next meeting of the public works committee for consideration of the particular circumstances involved. After the public works committee makes its determination, the city administrator shall inform the party seeking relief of the committee's decision. However, any user submitting a request for fee reduction or waiver under this section shall continue to pay the regular rates until the decision is rendered by the committee. (1995 Code, § 17-105)

17-106. Litter receptacles. (1) Use of receptacles. It shall be unlawful to deposit any item or items, except litter, in any receptacle placed for public use as a depository for litter.

(2) Providing adequate litter receptacles. It shall be the duty of any person owning or operating any establishment or public place to provide receptacles adequate to contain the litter generated at said establishment.

(3) Regulations regarding receptacles. The director is authorized to promulgate additional regulations concerning the number, size and locations of litter receptacles which should be approved by the board of mayor and aldermen and kept on file at the clerk's office. (1995 Code, § 17-106)

17-107. Unauthorized use of receptacles. It shall be unlawful to deposit any item in any privately owned receptacle without the consent of the owner. (1995 Code, § 17-107)

17-108. Disposal of material by contractors. It shall be unlawful for contractors to fail to remove from the premises used carpet, flooring, construction or demolition material resulting from their work unless the owner or tenant of the premises signs a release on a form prescribed by the City of Fayetteville. (1995 Code, § 17-108)

CHAPTER 2

PRIVATE COLLECTION OF BULK REFUSE

SECTION

- 17-201. Short title.
- 17-202. Prohibited without a permit.
- 17-203. Bulk refuse collector's permit generally.
- 17-204. Fee for bulk refuse collector's permit.
- 17-205. Insurance and bond requirements for bulk refuse collectors.
- 17-206. Vehicle requirements for bulk refuse collectors.
- 17-207. To dispose of refuse.
- 17-208. Requirement for lids or covers of dumpsters and bins.
- 17-209. List of charges.
- 17-210. Removal service for commercial customers and residential lot owners with no electric meter.

17-201. Short title. This chapter is the "Private Collection of Bulk Refuse Ordinance of Fayetteville, Tennessee." (1995 Code, § 17-201)

17-202. Prohibited without a permit. No person, firm or legal entity shall engage in the business of the collection, removal or disposal of garbage, refuse or rubbish for a fee or charge without a permit issued under this chapter. (1995 Code, § 17-202)

17-203. Bulk refuse collector's permit generally. (1) Permits for the collection of garbage, refuse or rubbish and its prompt disposal may be issued by the city administrator upon the filing of an application on a form prescribed by the city administrator; but the same shall be issued only after the city administrator has satisfied himself or herself that the applicant possesses or has available the necessary equipment and facilities to adequately perform the service of collection, storage, removal and disposal of garbage, refuse or rubbish. Permits shall be valid for one (1) year following date of issuance thereof unless sooner suspended or revoked. Any such permit may be immediately suspended for cause by the city administrator for the violation of any of the provisions of this chapter.

(2) Each permit issued under this section shall be numbered, and the permit holder shall place such number in a conspicuous place on each vehicle operated in the business. (1995 Code, § 17-203)

17-204. Fee for bulk refuse collector's permit. A fee of one hundred dollars (\$100.00) shall be assessed and collected by the city administrator for the issuance of each permit under § 17-203. In addition thereto, a fee of ten dollars (\$10.00) shall be assessed and collected for each vehicle designed for the

collection and transportation of refuse and which is used by the permit holder in the collection and transportation of refuse under this permit. (1995 Code, § 17-204)

17-205. Insurance and bond requirements for bulk refuse collectors. As a condition precedent to the issuance of a permit under § 17-203, the applicant shall furnish certificates showing general liability insurance for bodily injury liability on the comprehensive form with limits of one hundred thirty thousand dollars (\$130,000.00) per person in any one (1) accident and, subject to that limit for each person, three hundred fifty thousand dollars (\$350,000.00) for two (2) or more persons in any one (1) accident and automobile public liability and property damage insurance with limits of one hundred thirty thousand dollars (\$130,000.00) per person in any one (1) accident and subject to that limit for each person, three hundred fifty thousand dollars (\$350,000.00) for two (2) or more persons in any one (1) accident for bodily injury liability and fifty thousand dollars (\$50,000.00) property damage liability on the comprehensive form covering owned, non-owned and hired automobiles which will be used in connection with the work to be done under the permit. Also, workers' compensation insurance coverage satisfactory to the city administrator shall be proven. Further, as a condition precedent to the issuance of a permit under § 17-203, the applicant shall furnish a bond in the amount of five thousand dollars (\$5,000.00) to save the city harmless or shall deposit a sufficient amount of cash with the city administrator as will, in the opinion of the city administrator, cover the cost of repairing any streets or other improvements as may be damaged by the collection, removal or disposal of garbage, refuse or rubbish of the holder of a permit under this chapter. (1995 Code, § 17-205)

17-206. Vehicle requirements for bulk refuse collectors. All vehicles used by the holder of a permit under this chapter for the collection, removal and disposal of refuse shall have watertight metal bodies. (1995 Code, § 17-206)

17-207. To dispose of refuse. All refuse collection by holders of permits under this chapter shall be disposed at a facility approved by the State of Tennessee. (1995 Code, § 17-207)

17-208. Requirement for lids or covers of dumpsters and bins. All dumpsters with a capacity of two (2) to eight (8) cubic yards shall have lids or covers. All recycle bins shall have lids or covers. (1995 Code, § 17-208)

17-209. List of charges. A current listing of the various charges for services of private collectors of bulk refuse shall be filed with the city for public review and shall be kept current. (1995 Code, § 17-209)

17-210. Removal service for commercial customers and residential lot owners with no electric meter. (1) Commercial customers and owners of residential lots with no electric meter shall pay the city fifty dollars (\$50.00) per load to have the city remove trees, crates, furniture, waste materials or other bulky items from their properties.

(2) The city will only remove material that can be picked up with a knuckle-boom truck. Manual loading of materials will be prohibited. No one other than city employees will be allowed to load or operate the city trucks in the removal process.

(3) Material to be removed must be no longer than six feet (6') in length and should be piled by the street or stacked on a hard surface. Material to be removed must be on a flat surface. Material to be removed may not be placed under utility lines.

(4) A property owner seeking to have heavy material removed from his or her property must execute a written consent form releasing the city from any liability arising from city employees being on the owner's property during the removal process.

(5) A property owner seeking removal of items must schedule the removal with the public works department.

(6) The city will determine the amount of material that can be placed in an individual load as it pertains to the weight and size of the material.

(7) The removal fee must be paid prior to pick up regardless of the quantity.

(8) The city through its public works department will not pick up or remove the following:

- (a) Material from land which is being developed or is for development;
- (b) Hazardous material;
- (c) Concrete, rocks, bricks or dirt;
- (d) Construction material waste. (1995 Code, § 17-210)

CHAPTER 3

REFUSE AND TRASH DISPOSAL

SECTION

- 17-301. Definitions.
- 17-302. Responsibility for administration.
- 17-303. Premises to be kept clean.
- 17-304. Prohibited practices.
- 17-305. Prohibited substances.
- 17-306. Refusal of service.
- 17-307. Accumulation of refuse.
- 17-308. Yard waste.
- 17-309. Residential solid waste.
- 17-310. Commercial solid waste.
- 17-311. Special services.
- 17-312. Schedule of fees for disposal of garbage and refuse and frequency of collection.
- 17-313. Violations and penalty.

17-301. Definitions. (1) The pronouns he, him and his shall refer to persons of the female as well as the male gender, as applicable.

(2) "Ashes." The term "ashes" shall include the waste products from coal, wood, and other fuels used for cooking and heating from all public and private residences and establishments.

(3) "Bulk container." The term "bulk container" shall mean steel waste receptacles of not less than two (2) cubic yards and not more than eight (8) cubic yards designed for the storage of solid waste. The containers shall meet industry standards for service.

(4) "Collector." The term "collector" shall mean any person, firm, corporation, or political subdivision that collects, transports, or disposes of any refuse within the corporate limits of the City of Fayetteville.

(5) "Commercial solid waste." The term "commercial solid waste" shall mean solid waste resulting from the operation of any commercial, industrial, institutional or agricultural establishment, and multiple housing facilities.

(6) "Construction waste." The term "construction waste" shall mean materials from construction, demolition, remodeling, construction site preparation, including but not limited to rocks, trees, debris, dirt, bricks, fill, plaster, and all types of scrap building materials.

(7) "Garbage." The term "garbage" shall include all putrescible waste, except sewage and body waste, including vegetable and animal offal and carcasses of dead domesticated animals at the discretion of the public works director, but excluding recognizable industrial by-products, from all public and private residences.

(8) "Grass clippings." The term "grass clippings" shall mean any residue remaining from the cutting, clipping, or trimming of grass from any home, business, or agricultural endeavor.

(9) "Hazardous refuse." The term "hazardous refuse" shall mean any chemical compound, mixture, substance or article which may constitute a hazard to health or may cause damage to property by reason of being explosive, flammable, poisonous, corrosive, unstable, irritating, radioactive, infectious, or otherwise harmful.

(10) "Health officer." The term "health officer" shall mean the Chief of Police of the City of Fayetteville or his authorized representative.

(11) "Industrial waste." The term "industrial waste" shall mean all such wastes peculiar to industrial, manufacturing or processing plants and shall include hazardous refuse.

(12) "Infectious wastes." The term "infectious waste" means waste which contain pathogens with sufficient virulence and quantity so that exposure to the waste by a susceptible host could result in an infectious disease. For purposes of this policy, the following waste shall be considered to be infectious waste:

(a) Isolation wastes. Wastes contaminated by patients who are isolated due to communicable disease, as provided in the U.S. *Centers for Disease Control Guidelines for Isolation Precautions in Hospitals*.

(b) Cultures and stocks of infectious agents and associated biologicals. Cultures and stocks of infectious agents, including specimen cultures from medical and pathological laboratories, cultures and stocks of infectious agents from research and industrial laboratories, wastes from the production of biologicals, discarded live and attenuated vaccines, and culture dishes and devices used to transfer, inoculate, and mix cultures.

(c) Human blood and blood products. Waste human blood and blood products such as serum, plasma, and other blood components.

(d) Pathological wastes. Pathological wastes, such as tissues, organs, body parts, and body fluids.

(e) Contaminated sharps. All discarded sharps (e.g. hypodermic needles, syringes, pasteur pipettes, broken glass, scalpel blades) used in patient care or which have come into contact with infectious agents during use in medical, research, or industrial laboratories.

(f) Contaminated animal carcasses, body parts, and bedding. Contaminated carcasses, body parts (including fluids), and bedding of animals that were intentionally exposed to pathogens in research, in the production of biologicals, or in the in vivo testing of pharmaceuticals.

(g) Facility-specified infectious wastes. Other wastes determined to be infectious by a written facility policy.

(13) "Residential solid waste." The term "residential solid waste" shall mean solid waste resulting from the maintenance and operation of dwelling

units, excluding multiple housing facilities. This also excludes specific wastes defined and/or included in other parts of this chapter.

(14) "Roll out container." The term "roll out container" shall mean a standard city issued ninety-six (96) gallon container designed for the storage of solid waste prior to collection.

(15) "Rubbish." The term "rubbish" shall include all nonputrescible waste materials except ashes from all public and private residences and establishments.

(16) "Solid waste." The term "solid waste," as hereinafter referred to in this chapter, shall include garbage, rubbish, and all other putrescible and nonputrescible, combustible and noncombustible materials originating from the preparation, cooking, and consumption of food, market refuse, waste from the handling and sale of produce, and other similar unwanted materials, from residences and establishments, public and private, but shall not include sewage, body waste, recognizable industrial or medical by-products.

(17) "Tipping fees." The term "tipping fee(s)" shall mean the fee(s) imposed at the City of Fayetteville Transfer Station on all waste brought to the facility for transfer to an appropriate disposal site.

(18) "Yard waste." The term "yard waste" shall mean, leaves, tree and shrubbery trimmings. (Ord. #2013-10, Aug. 2013)

17-302. Responsibility for administration. (1) The public works director, or his authorized representative, shall have the authority to make and modify regulations as necessary concerning the days of collection, location of containers, and such other matters pertaining to the collection, transporting and disposal of solid waste refuse; provided that such regulations are not in violation of the provisions of this chapter.

(2) The public works director, or his authorized representative, shall be responsible for the enforcement of this chapter.

(3) All refuse (including garbage and rubbish) as heretofore defined shall be collected sufficiently and frequently to prevent the occurrence of nuisances and public health problems. The collection of refuse within the City of Fayetteville shall be under the jurisdiction of the solid waste department. (Ord. #2013-10, Aug. 2013)

17-303. Premises to be kept clean. All persons, firms, and corporations within the corporate limits of the City of Fayetteville are hereby required to keep their premises in a clean and sanitary condition, free from accumulations of refuse, offal, filth, and trash. All persons, firms, and corporations are hereby required to store such refuse in sanitary containers of the type described in this chapter between intervals of collection or to dispose of such material in a manner prescribed by the City of Fayetteville so as not to cause a nuisance or become injurious to the public health and welfare. (Ord. #2013-10, Aug. 2013)

17-304. Prohibited practices. (1) It shall be unlawful for any person, firm, or corporation to dump refuse in any form into any stream, ditch, storm sewer, sanitary sewer, or other drain within the City of Fayetteville.

(2) The disposal of refuse in any quantity by an individual, householder, establishment, firm, or corporation in any place, public or private, other than at the site or sites designated and/or with properly approved permits from the Tennessee Department of Solid Waste Management is expressly prohibited. All disposal of refuse and garbage shall be by methods approved by the solid waste department under Tennessee Department of Solid Waste Management guidelines. Such methods shall include the maximum practical rodent, insect, and nuisance control at the place of disposal.

(3) It shall be unlawful for any person, firm, or corporation to burn or attempt to burn refuse on private or public property within the corporate limits of the City of Fayetteville without first securing the approval of the Fayetteville Fire Department. (Ord. #2013-10, Aug. 2013)

17-305. Prohibited substances. (1) Substances prohibited from pick-up and, which shall not be deposited in garbage containers include, but are not limited to:

(a) Flammable liquids, solids or gases, such as gasoline, benzene, 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) Infectious wastes and hypodermic syringes. Used hypodermic syringes shall not be placed with other waste for collection by the City of Fayetteville, but be disposed of by a licensed medical waste disposal firm.

(d) "Construction waste" as defined by § 17-301(6). The removal and disposal of such materials shall be the responsibility of the construction contractor, developer or property owner.

(e) Rocks, dirt, bricks, concrete, broken glass unless in approved container, and sharp metal glass. (Ord. #2013-10, Aug. 2013)

17-306. Refusal of service. The City of Fayetteville reserves the right to refuse service to any occupant, tenant, owner, or business guilty of severe or repeated violations of this chapter or for hampering or interfering with employees of the sanitation department in the discharge of their duties hereunder. Should service be refused, the occupant, tenant, owner, or business may, within five (5) working days, submit a written appeal to the city administrator. The city administrator shall, within five (5) working days of receipt of an appeal, issue a written response, upholding, vacating, or modifying the decision. (Ord. #2013-10, Aug. 2013)

17-307. Accumulation of refuse. Each owner, occupant, tenant, subtenant, lessee or others, using or occupying any building, house, structure, or grounds within the corporate limits of the City of Fayetteville where refuse materials or substances as defined in this chapter accumulate, or are likely to accumulate, shall provide an adequate number of suitable containers of a type approved by the public works director for the storage of such refuse. (Ord. #2013-10, Aug. 2013)

17-308. Yard waste. (1) Leaves, lawn clippings, etc. (a) It shall be the responsibility of the sanitation department of the city to shovel or pick up from the ground any loose accumulation of refuse, including leaves, lawn clippings, brush, etc.

(b) The collecting agency of the city shall not be responsible to remove any brush, trunks, or limbs of trees unless said brush shall have been cut into lengths of not more than ten feet (10'). The trunks or limbs of trees measuring fifteen inches (15") or more in diameter shall be cut into lengths of not more than six feet (6') and of a weight of no more than seventy-five (75) pounds, and all of said material shall be piled at curbside. (Ord. #2013-10, Aug. 2013)

17-309. Residential solid waste. (1) All residents shall provide sufficient city issued ninety-six (96) gallon regulation containers to properly store one week's accumulation of refuse (including garbage and rubbish).

(2) The public works director may require any residential household regularly exceeding ninety-six (96) gallons or two hundred (200) pounds of garbage in a collection period to purchase a second container from the city, which requires a second monthly payment for collection.

(3) The containers shall remain the property of the city at the property address where delivered, and are provided and assigned to residences for the health, safety, convenience and general welfare of the occupants. Containers that are damaged, destroyed, or stolen through neglect, improper use or abuse by the occupant-users shall be replaced by the city at the expense of the occupants or the owner of the residence. Containers which are damaged in the course of normal and reasonable usage or which are damaged or destroyed, through no abuse, neglect, or improper use of the occupant-users or residence owner shall be repaired or replaced by the city at no charge to the occupant-users or residence owners. The containers shall not be damaged, destroyed, defaced, or removed from the premises by any person; markings and identification devices on the containers except as placed or specifically permitted by the city are expressly prohibited and shall be regarded as damage to the containers.

(4) It shall be unlawful for any person, other than the occupant-user, to move, remove, upset, scatter, tamper, use, carry away, deface, mutilate,

destroy, damage or interfere with the garbage container, or any refuse left for collection.

(5) It shall be the responsibility of each occupant, on the scheduled day of collection, to place their container on the property side of the curb or street, or in a city approved location for pick-up. Containers shall be placed in such a location as to be readily accessible for removal by the city. The container shall be placed in such a manner as not 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. Garbage containers shall not be placed, without the express permission of the city, on a public sidewalk, or in a drainage ditch.

(6) Construction waste and yard waste, as defined in this chapter, are hereby prohibited from being placed in the ninety-six (96) gallon or other city approved residential garbage collection containers.

(7) City garbage collectors shall not enter houses, stores, garages, or open gates for the collection of garbage or rubbish, nor shall they accept any money or valuable gifts for their services from persons served.

(8) All garbage or refuse must be drained of all liquids and wrapped in plastic or other equivalent material prior to placing it in any storage receptacle. The containers shall be maintained in a clean and sanitary manner and shall be thoroughly cleaned by washing or other method as often as necessary to prevent the breeding of flies and the occurrences of offensive odors.

(9) Garbage and refuse shall not be stored in close proximity to other personal effects which are not desired to be collected, but shall be reasonably separated in order that the collectors can clearly distinguish between what is to be collected and what is not.

(10) Collection of white goods, stoves, refrigerators, freezers, window type air conditioners, shall be collected by the collection agency. Refrigerators and freezers, shall have doors removed or secured in accordance with *Tennessee Code Annotated*, § 39-6-104, and have all contents removed. White goods shall be stored out of public view until their scheduled collection. (Ord. #2013-10, Aug. 2013)

17-310. Commercial solid waste. (1) Businesses using regulation ninety-six (96) gallon cans for collection shall provide sufficient containers to properly store one (1) week's accumulation of refuse.

(2) Nothing in this section shall prohibit commercial establishments or private residents from removing their own solid waste. However, private citizens will still be subject to the monthly refuse collection service fee from the city.

(3) In no event shall public or private commercial dumpsters, roll off containers or other bulk containers be placed on a public street, right-of-way or public property:

(a) Without express written consent of the public works director.

(b) For longer than thirty (30) days unless approved by the public works director. (Ord. #2013-10, Aug. 2013)

17-311. Special services. (1) Roll-out commercial excess. Any waste collected at commercial establishments utilizing city issued ninety-six (96) gallon roll-out carts that does not fit in the provided number of ninety-six (96) gallon roll-out carts, will be assessed an extra pick-up fee. Volumes of waste may, at the discretion of the public works director or his designee.

(2) Residential excess. Any excess waste collected at residences may, based on volume and at the discretion of the public works director or his designee, be assessed a fee based on the amount of the excess. (Ord. #2013-10, Aug. 2013)

17-312. Schedule of fees for disposal of garbage and refuse and frequency of collection. Residential. A fee as specified in § 17-105, comprehensive fees and penalties, shall be paid to the city for the disposal of solid waste for every household container (once per-week pickup). (Ord. #2013-10, Aug. 2013)

17-313. Violations and penalty. (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 up to ten (10) days' time limit for the satisfactory correction thereof. The offender shall, within the time period stated in such notice, permanently cease all violations. Service will be discontinued until such time as the violation is corrected.

(2) Any person violating any of the provisions of this chapter shall become liable to the city for any expense, loss or damage occasioned by city personnel or equipment by reason of such violation. (Ord. #2013-10, Aug. 2013)

TITLE 18

WATER AND SEWERS¹

CHAPTER

1. SEWAGE DISPOSAL.
2. SEWERS.
3. CROSS-CONNECTIONS, AUXILIARY INTAKES, ETC.

CHAPTER 1

SEWAGE DISPOSAL²

SECTION

18-101. Disposal.

18-101. Disposal. Sewage shall be disposed of in accordance with the provisions of title 18, chapter 2 of this code. (1995 Code, § 18-101)

¹Municipal code references

Building, utility etc. codes: title 12.
Refuse and trash disposal: title 17.

²Municipal code reference

Plumbing code: title 12, chapter 2.

CHAPTER 2

SEWERS¹

SECTION

- 18-201. Purpose and policy.
- 18-202. Abbreviations and definitions.
- 18-203. Requirements for proper wastewater disposal.
- 18-204. Connection to public sewer.
- 18-205. Inspection of connections.
- 18-206. Maintenance responsibility of building sewers.
- 18-207. Availability of public sewer.
- 18-208. Requirements for private wastewater disposal.
- 18-209. Holding tank waste disposal permit.
- 18-210. Application for discharge of residential domestic wastewater.
- 18-211. Application for discharge of commercial or industrial wastewater.
- 18-212. General discharge prohibitions.
- 18-213. Restrictions on wastewater strength.
- 18-214. Protection of the treatment plan influent--more restrictive criteria.
- 18-215. Industrial pretreatment regulations.
- 18-216. Industrial pretreatment requirements.
- 18-217. National categorical pretreatment standards.
- 18-218. Reporting requirements.
- 18-219. Enforcement plan.
- 18-220. Public nuisance.
- 18-221. Damage to facilities.
- 18-222. Legal action.
- 18-223. Pretreatment enforcement hearings and appeals.
- 18-224. Affirmative defenses to discharge violations.
- 18-225. Enforcement response guide.
- 18-226. Fees and billing.
- 18-227. Validity.

18-201. Purpose and policy. This chapter sets forth uniform requirements for the disposal of wastewater in the service area of the City of Fayetteville, Tennessee, (COF) as provided by Fayetteville Public Utilities (FPU). The objectives of this chapter are:

- (1) To protect the public health and the health of the FPU personnel;
- (2) To provide problem free wastewater collection and treatment service;

¹Municipal code reference
Plumbing code: title 12.

(3) To prevent the introduction of pollutants into the Publicly Owned Treatment Works (POTW) which will interfere with the system operation; will cause the POTW discharge to violate its National Pollutant Discharge Elimination System (NPDES) permit or other applicable state requirements; or will cause physical damage, danger, or unnecessary excessive work to the POTW facilities or collection system;

(4) To provide for full and equitable distribution of the cost of the POTW and collection system;

(5) To enable FPU to comply with the provisions of the Federal Clean Water Act, the General Pretreatment Regulations (40 CFR part 403), and other applicable federal and state laws and regulations; and

(6) To improve the opportunity to recycle and reclaim wastewaters and sludge from the POTW.

In meeting these objectives, this chapter provides that all persons in the wastewater service area of FPU must have adequate wastewater treatment either in the form of a connection to the POTW or, where the system is not available, an appropriate private disposal system. The chapter also provides for the issuance of permits to system users; for the regulations of wastewater discharge volume and characteristics; for monitoring and enforcement activities; and for the setting of fees for the full and equitable distribution of costs resulting from the operation, maintenance, and capital recovery of the POTW and from other activities required by the enforcement and administrative program established herein.

This chapter shall apply to FPU users inside and outside the city limits of Fayetteville, Tennessee who are, by contract or agreement with FPU, users of the POTW FPU shall administer, implement, and enforce the provisions of this chapter. This chapter shall be enforced in accordance with a written Enforcement Response Plan (ERP) and as provided herein. (1995 Code, § 18-201)

18-202. Abbreviations and definitions. Unless the context specifically indicates otherwise, the following abbreviations, terms and phrases, as used in this chapter, shall have the meanings hereinafter designated:

BMP	Best Management Practices
BMR	Baseline Monitoring Report
BOD	Biochemical Oxygen Demand
CIU	Categorical Industrial User
CFR	Code of Federal Register
COD	Chemical Oxygen Demand
EPA	Environmental Protection Agency
ERP	Enforcement Response Plan
FOG	Fats, Oils, and Grease
FPU	Fayetteville Public Utilities
FSE-ERG	Food Service Established Enforcement Response Guide

GPD	Gallons per Day
IU	Industrial User
MG/L	Milligrams per Liter
NAICS	North American Industry Classification System
NPDES	National Pollutant Discharge Elimination System
POTW	Publicly Owned Treatment Works
SIC	Standard Industrial Classification
SIU	Significant Industrial User
SNC	Significant Noncompliance
TDEC	Tennessee Department of Environment and Conservation
TSS	Total Suspended Solids
U.S.C.	United States Code

(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 Division of Water Pollution Control Director of the Tennessee Department of Environment and Conservation (TDEC) or his/her representative.

(3) "Authorized representative" or "duly authorized representative of industrial user." an authorized representative of an industrial user may be:

(a) If the user is a corporation:

(i) The president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any 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, environmental compliance with environmental laws and regulations; can insure 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 the 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 agency: a director or highest official appointed or designated to oversee the operation and performance of the activities of the governmental facility, or their designee.

(d) The individuals described in subsections (a) through (c), above, may designate an 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 FPU.

(4) "Best Management Practices (BMPs)" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in § 18-212 of this chapter. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge waste disposal, or drainage from raw materials storage.

(5) "Biochemical Oxygen Demand (BOD)." The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at twenty degrees Celsius (20° C) expressed in terms of weight and concentration (mg/l).

(6) "Board." The FPU board as appointed by and working in conjunction with the City of Fayetteville.

(7) "Building sewer." The pipeline connecting the sanitary sewage facilities within a residence or commercial/industrial structure to the public sewer. Building sewers include both gravity flow and pressure pipelines and appurtenances as required by the type of service provided to the residence or commercial/industrial user. Building sewers may also be referred to as laterals, sewer laterals, service laterals, building drains, and other similar terms all of which shall be interrupted to mean "building sewer" as used herein.

(8) "Categorical Industrial User (CIU)." An industrial user subject to a categorical pretreatment standard or categorical standard.

(9) "Chemical Oxygen Demand (COD)." The measure of the oxygen equivalent of a sample susceptible to oxidation by the dichromate reflux method.

(10) "Composite sample." A sample composed of two (2) or more discrete samples. The aggregate sample will reflect the average water quality covering the compositing or sample period.

(11) "Control mechanism." Refers to application or permit.

(12) "Cooling water." The water discharged from any use such as air conditioning, cooling, or refrigeration, or to which the only pollutant added is heat.

(13) "Customer/user." The owner, tenant or occupant of any lot or parcel of land connected to a sanitary sewer, or which a sanitary sewer line is available if a municipality levies a sewer charge on the basis of such availability.¹

¹State law reference

Tennessee Code Annotated, § 68-221-201.

(14) "Daily maximum." The arithmetic average of all effluent samples of a pollutant (except pH) collected during a calendar day.

(15) "Daily maximum limit." The maximum allowable discharge limit of a pollutant during a calendar day. Where the limit is expressed in units of mass, the limit is the maximum amount of total mass of the pollutant that can be discharged during the calendar day. Where the limit is expressed in concentration, it is the arithmetic average of all concentration measurements taken during the calendar day.

(16) "Direct discharge." The discharge of treated or untreated wastewater directly to the waters of the State of Tennessee.

(17) "Domestic wastewater." Wastewater that is generated by a single family, apartment or other dwelling unit or dwelling unit equivalent containing sanitary facilities for the disposal of wastewater and used for residential purposes only.

(18) "Enforcement Response Plan (ERP)." A plan that is to be reviewed by FPU periodically that determines the proper enforcement response to each pretreatment violation.

(19) "Environmental Protection Agency (EPA)." The U.S. Environmental Protection Agency, or where appropriate the term may also be used as designation for the administrator or other duly authorized official of the said agency.

(20) "Existing source." Any source of discharge that is not a new source.

(21) "Fayetteville Public Utilities (FPU)." The utility that provides public sewer services in the service area of the City of Fayetteville, Tennessee; the person or persons authorized by FPU to supervise the operation of the POTW and who is charged with certain duties and responsibilities by this chapter, including the FPU board.

(22) "Fats, Oils, and Grease (FOG)." Substances found in kitchens, garages, food service establishments, and foods such as meats, sauces, salad dressings, deep-fried dishes, cookies, pastries, butter, etc. which accumulates in sewer systems causing obstructions by constricting flow of the sewer pipes and interfering with normal operation of the POTW.

(23) "FOG management policy." Program administered by FPU aimed to prevent fats, oils, and grease from being discharged into the sewer collection system through public education and monitoring of restaurants and other entities which process food in an effort to reduce the occurrence of sanitary sewer overflows.

(24) "Food Service Establishment Enforcement Response Guide (FSE-ERG)." A guide that provides for a consistent response to all food service establishments that cause, or have the potential to cause, interference to the POTW.

(25) "Garbage." Solid wastes, generated from any domestic, commercial, or industrial source.

(26) "Grab sample." An individual sample which is collected from a waste stream over a period of time not to exceed fifteen (15) minutes.

(27) "Holding tank waste." Any waste from holding tanks such as vessels, campers, or trailers, and vacuum-pump tank trucks.

(28) "Indirect discharge." The introduction of pollutants into the POTW from any non-domestic source.

(29) "Industrial User (IU)." 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).

(30) "Industrial waste." Any liquid, solid, or gaseous substance, or combination thereof, or form of energy including heat, resulting from any process of industry, manufacture, trade, food processing or preparation, or business or from the development of any natural resource.

(31) "Instantaneous limit." The maximum concentration of a pollutant allowed to be discharged at any time, determined by analysis of any discrete or composited sample, collected, independent of the flow rate or duration of the sampling event.

(32) "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 POTW or the collection system.

(33) "Local limit." Specific discharge limits developed and enforced by FPU upon industrial users to implement the general and specific discharge prohibitions listed in Tennessee Rule 1200-4-14-.05(1)(a) and (2).

(34) "Medical waste." Isolation waste, infectious agents, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, and dialysis wastes.

(35) "National categorical pretreatment standard" or "categorical standard." Any regulation containing pollutant discharge limits promulgated by EPA in accordance with section 307(b) and (c) of the Act (33 U.S.C. § 1317), which applies to industrial users.

(36) "National Pollutant Discharge Elimination System (NPDES)." The program for issuing, conditioning, and denying permits for the discharge of pollutants from point sources into navigable waters, the contiguous zone, and the oceans pursuant to section 402 of the Federal Water Pollution Control Act as amended.

(37) "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 section 307(C) of the Federal Clean Water Act which will be applicable to such source if such standards are thereafter promulgated in accordance with the 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 of wastewater generating processes of the building, structure, facility or installation is 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 subsections (a)(ii) or (a)(iii) of this definition but otherwise alters, replaces, or adds to existing process or production equipment.

(c) Construction of a new source as defined under this subsection 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 cleaning, 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 is intended to be useful 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 subsection.

(38) "Non-contact cooling water." Water used for cooling that does not come into direct contact with any raw material, intermediate product, or finished product.

(39) "Pass through." A discharge which exits the WWTP 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 FPU's NPDES permit, including an increase in the magnitude or duration of a violation.

(40) "Person." Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or their legal representatives, agents, assigns. The

masculine gender shall include the feminine; the singular shall include the plural where indicated by the context.

(41) "pH." The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

(42) "Pollution." The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of the water.

(43) "Pollutant." Any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical waste, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, municipal, agricultural and industrial waste, and certain characteristics of wastewater (e.g., pH temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

(44) "Pretreatment standard" or "standards." Prohibited discharge standards, categorical pretreatment standards, and local limits.

(45) "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, or in lieu of introducing such pollutants into a 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.

(46) "Pretreatment requirements." Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

(47) "Prohibited discharge standards." Prohibitions against discharges of certain substances as described in § 18-212(1).

(48) "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 FPU. This definition includes any sewers that convey wastewater to the POTW treatment plant including pipes, sewers, or other conveyances only if they convey wastewater to the POTW.

(49) "Shall/will" or "may." "Shall/will" is mandatory, "may" is permissive.

(50) "Significant Industrial User (SIU)." (a) All industrial users subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR chapter 1, subchapter N; and

(b) Any other industrial user that:

(i) Discharges an average of twenty-five thousand (25,000) gallons per day or more of process wastewater to the POTW (excluding sanitary, non-contact 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; or

(iii) In the opinion of FPU, has a reasonable potential to adversely affect the POTW's operation or violate any pretreatment standard or requirement.

(51) "Significant Noncompliance (SNC)." (a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements for each pollutant parameter taken during a six (6) month period exceed (by an magnitude) a numeric pretreatment standard or requirement, including instantaneous limits.

(b) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all of the measurements for each pollutant parameter taken during a six (6) month period equal or exceed the product of the numeric pretreatment standard or requirement, including instantaneous limits, multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, oils, and grease, and 1.2 for all other pollutants except pH). TRC calculations for pH are not required.

(c) Any other violation of a pretreatment standard or requirement (daily maximum, longer-term average, instantaneous limit, or narrative standard) that the POTW determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public).

(d) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare, or to the environment or has resulted in the POTW's exercise of its emergency authority under § 18-219(7), emergency order, to halt or prevent such a discharge.

(e) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance.

(f) Failure to provide, within forty-five (45) days after their due date, required reports such as baseline monitoring reports on compliance with compliance schedules.

(g) Failure to accurately report noncompliance.

(h) Any other violation or group of violations, which may include a violation of best management practices, which the POTW determines will adversely affect the operation or implementation of the local pretreatment program.

(52) "Slug" or "slug discharge." 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 local limits or permit conditions.

(53) "Standard Industrial Classification (SIC)." A United States government system for classifying industries by a four (4) digit code. Established in 1937, it is being supplanted by the six (6) digit North American Industry Classification System (NAICS), which was released in 1997.

(54) "State." State of Tennessee.

(55) "Storm sewer." A pipe or conduit which carries storm and surface waters and drainage but excludes sewage and industrial wastes; it may, however, carry cooling waters and unpolluted waters upon approval of FPU.

(56) "Stormwater." Any flow occurring during or following any form of natural precipitation and resulting therefrom.

(57) "Suspended Solids (SS)" or "Total Suspended Solids (TSS)." The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquids, and which is removable by laboratory filtering.

(58) "Toxic pollutant." Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency under the provision of CWA (307(a)) or other Acts.

(59) "Twenty-four (24) hour flow-proportional composite sample." A sample consisting of not less than eight (8) portions, of at least one hundred (100) mls, collected during a twenty-four (24) hour period in which the portions of a sample are proportioned to the flow and combined to form a representative sample.

(60) "Upset." An exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the industrial user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(61) "User/customer." The owner, tenant or occupant of any lot or parcel of land connected to a sanitary sewer, or which a sanitary sewer line is available if a municipality levies a sewer charge on the basis of such availability.¹

(62) "Wastewater." The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, whether treated or untreated, which is contributed into or permitted to enter the POTW.

(63) "Wastewater Treatment Plant (WWTP)." Defined the same as POTW.

(64) "Waters of the state." All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or

¹State law reference

Tennessee Code Annotated, § 68-221-201.

underground, natural or artificial, public or private, which are contained within, flow through or border upon the state or any portion thereof. (1995 Code, § 18-202)

18-203. Requirements for proper wastewater disposal. (1) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within FPU's service area, any human or animal excrement, garbage, or other objectionable waste.

(2) It shall be unlawful to discharge to any waters of the state within FPU's service area any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.

(3) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

(4) Except as provided in subsection (5) below, the owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes situated within FPU's service area and abutting on any street, alley, or right-of-way in which there is now located a public sanitary sewer, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter, within thirty (30) days after date of official notice to do so.

(5) Property owners with availability to a public sanitary sewer as defined herein shall be billed for sewer usage regardless of whether or not they have physically connected to a public sanitary sewer as follows:

(a) Any owner of property determined to have sewer availability and whose building is located within one hundred feet (100') of a public sanitary sewer, shall be subject to full sewer service charges based on water usage as determined by FPU's current schedule of charges and fees.

(b) Any owner of property determined to have sewer availability and whose building is located more than one hundred feet (100') away from a public sanitary sewer, shall be subject to a minimum sewer service charge as determined by FPU's current schedule of charges.

(c) Where a public sanitary sewer is not available under the previous subsection (4), the property owner shall not be charged for sewer service.

(6) The owner of a manufacturing facility may discharge wastewater to the waters of the state provided he obtains an NPDES permit and meets all the requirements of the Federal Clean Water Act, the NPDES permit, and any other applicable local, state, or federal statutes and regulations.

(7) Where a public sanitary sewer is not available under the provisions of subsection (4), the building sewer shall be connected to a private sewage

disposal system complying with the provisions of §§ 18-207 and 18-208 of this code.

(8) FPU may adopt from time to time standard policies on public sewer extensions which are to become part of FPU's sewer system following completion of construction. These policies may include, but are not limited to, requirements for planning, permitting, approval, funding and acceptance, design and construction standards, standard specifications, and standard details. Copies of the policies will be made available to engineers, developers, contractors, plumbers, and other parties desiring to extend or connect to FPU's sewer system. (1995 Code, § 18-203)

18-204 Connection to public sewer. (1) There shall be two (2) classifications for application for service:

- (a) Residential; and
- (b) Commercial/industrial.

In either case, the owner or his agent shall make application for connection on a special form furnished by FPU. Applicants for service to commercial/industrial establishments shall be required to furnish information about all waste producing activities, wastewater characteristics and constituents. The application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of FPU. The receipt by FPU of a prospective customer's application for connection shall not obligate FPU to render the connection. If the service applied for cannot be supplied the connection charge will be refunded in full, and there shall be no liability to the applicant for such service.

(2) No person shall make connections of roof downspouts, sump pumps, basement wall seepage or floor seepage, exterior foundation drains, areaway drains, or other sources of surface runoff or ground water to a building sewer which in turn is connected directly or indirectly to a public sanitary sewer. Any such connections which already exist on the effective date of this chapter shall be completely and permanently disconnected within sixty (60) days of the effective day of this chapter.

(3) No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written application from FPU as required by §§ 18-210 or 18-211 of this chapter.

(4) All costs and expenses related to the installation, connection, and inspection of the building sewer shall be borne by the owner. The owner shall indemnify FPU from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(5) A separate and independent building sewer shall be provided for every building; except where one (1) 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 (1) building sewer.

(6) Old building sewers may be used in connection with new buildings only when they are found on examination and testing by FPU, to meet all requirements of this chapter. All others must be sealed to the specifications of FPU.

(7) Building sewers shall conform to the following requirements:

(a) The minimum size of a building sewer shall be four inches (4").

(b) The minimum depth of a building sewer shall be eighteen inches (18").

(c) Four inch (4") building sewers shall be laid on a grade greater than one-eighth inch (1/8") per foot. 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.

(d) Slope and alignment of all building sewers shall be neat and regular.

(e) Building sewers shall be constructed only of:

(i) Ductile or cast iron soil pipe with solvent welded or with rubber compression joints of approved type of pipe used; or

(ii) Schedule 40 polyvinyl chloride pipe with solvent welded or with rubber compression joints of approved type of pipe used; or

(iii) Such other materials of equal or superior quality as may be approved by FPU. Under no circumstances will cement mortar joints be acceptable.

(f) Cleanouts shall be provided to allow cleaning in the direction of flow, and shall be located five feet outside of the building and at each change of direction of the building sewer which is greater than forty-five degrees (45°). Additional cleanouts shall be placed not more than seventy-five feet (75') apart in horizontal building sewers of four inch (4') nominal diameter and not more than one hundred feet (100') apart for larger pipes. Cleanouts shall be extended to or above the finished grade level directly above the place where the cleanout is installed. "Ts" (tees) or Ys (wyes) and twenty-two and one-half degrees (22 1/2°) or forty-five degrees (45°) fittings shall be used for the cleanout base. Cleanouts shall not be smaller than four inches (4") on a four inch (4") pipe

(g) Connections of building sewers to the public sewer system shall be made to the appropriate existing wyes or tees using compression type couplings or collar type rubber joint with corrosion resisting or stainless steel bands. Where existing wyes or tees are not available, connections of building services shall be made by either removing a length of pipe and replacing it with a wye or tee fitting or cutting a clean opening in the existing public sewer and installing a tee-saddle or

tee-insert of a type approved by FPU. Where connections are made with pipes of different inside or outside diameter, proper watertight gasket or sleeved transition connections shall be used. All such connections shall be made gastight and watertight.

(h) The building sewer may be brought into the building below the basement floor when gravity flow from the building to the sanitary sewer is at a grade of one-eighth inch (1/8") per foot or more. In cases where basement or floor levels are lower than the ground elevation at the point of connection to the sewer, adequate precautions by installation of check valves or other backflow prevention devices to protect against flooding shall be provided by the owner. In all buildings in which any building sewer is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building sewer shall be lifted by a private sewage pumping station and discharged to the building sewer at the expense of the owner. If the public sewer available to a particular parcel is low pressure sewer, then connection to such public sewer shall be by an approved private sewage pumping station and low pressure sewer service line.

(i) The methods to be used in excavating, placing of pipe, jointing, testing, backfilling the trench, or other activities in the construction of a building sewer which have not been described above shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of FPU or to the procedures set forth in appropriate specifications of the ASTM and Water Pollution Control Federal Manual of Practice No. 9. Any deviation from the prescribed procedures and materials must be approved by FPU before installation.

(j) An installed building sewer shall be gastight and watertight.

(8) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazards. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to FPU.

(9) Building sewers and sewer line extensions shall be designed and constructed in accordance with the latest revision of the "Standard Specifications for Water Distribution and Sewerage Systems" of FPU. Such specifications for private sewage pumping stations may require the use of grinder pumps and other related equipment which are the products of specific manufacturers. Such requirements shall be based on FPU's assessment of the equipment's economy, quality, and durability, and the need to develop locally available maintenance capabilities and replacement part inventories for the pumping station components. (1995 Code, § 18-204)

18-205. Inspection of connections. (1) The sewer connection and all building sewers from the building to the public sewer main line shall be

inspected by FPU and subject to testing before the underground portion is covered.

(2) The applicant for discharge shall notify FPU when the building sewer and connection are ready for inspection.

(3) FPU shall have free and unobstructed access to any part of the premises where building sewers or other drains connected with or draining into the public sewers are laid for the purpose of examining the construction, condition, and method of use of the same, upon cause or reasonable suspicion that there may be inadequate plumbing, that the facilities present may not be properly functioning, that there is an improper discharge, or for a periodic systematic inspection of a particular drainage basin or other large segment of the system at any time of the day between the hours of 7:00 A.M. and 6:00 P.M. or any other time in the event of an emergency. If such entry is refused, the sewer service may be suspended immediately in the event of an emergency if there is reasonable cause to suspect that the discharge will endanger the public health or the environment, have the potential to interrupt the treatment process, or damage FPU's lines or facilities; and a hearing shall thereafter be afforded the user as soon as possible. (1995 Code, § 18-205)

18-206. Maintenance responsibility of building sewers. (1) Each individual property owner or user of the POTW shall be entirely responsible for the maintenance of the building sewer located on private property. This maintenance will include repair or replacement of the service line as deemed necessary by FPU to meet its specifications.

(2) When an owner of property leases premises to any other person as a tenant under any rental or lease agreement, if either the owner or the tenant is a commercial/industrial user, either or both may be held responsible for compliance with the provisions of this chapter.

(3) When a building is demolished, or in the case of a mobile home when it is removed from the premises, it shall be the responsibility of the property owner to have the sewer service line plugged securely so that extraneous water will not enter the sewer. The owner of the premises or his agent shall notify FPU of such a plug and allow same to be inspected prior to covering of any work. If such line is to be reused, it must first undergo inspection by FPU, and be in conformity with current standards for building sewers.

(4) Excluding those industrial waste facilities with a permit issued pursuant to § 18-211, the owner or operator of a private sewer system such as, but not limited to, multi-tenant buildings, building complexes, and shopping centers shall be responsible for the quality of wastewater discharged at the point of connection to FPU's sanitary sewer system and shall be responsible for any violations of the provisions of this chapter, including liability for the damage or injury caused to FPU as a result of any discharge through the private system.

(5) Special limitations. (a) Garbage grinders. No waste from commercial or institutional garbage grinders shall be discharged into FPU's sewers except from private garbage grinders used in an individual residence or upon approval of FPU for preparation of food consumed on premises.

(b) Vehicle wash racks. All new gasoline filling stations, garages, self-service automobile washers, and other public wash racks where vehicles are washed shall install and maintain (e.g., clean on a regular schedule) catch basins, subject to the approval of FPU. In the event any existing premises does not have a catch basin and the sewer line servicing the facility stops up due to grit or slime in the sewer lines, the owner or operator of such premises shall be required to modify these facilities to construct a catch basin as a condition of continuing use of the system.

(c) Grease traps, grit traps, oil traps, and lint traps. All new restaurants, laundries, wash racks, vehicle service stations, private multi-user systems, engine or machinery repair shops, and other facilities that produce grease, grit, oil, lint, or other materials which accumulate and cause or threaten the safety of its employees shall install and maintain (e.g., clean on a regular schedule) grease control equipment consisting of a grease trap, grit trap, lint trap, oil interceptor, or other appropriate device of standard design and construction to prevent excess discharges of such materials. The design and construction of any such device shall be subject to prior approval of FPU and constructed in accordance with applicable building codes. Such establishments must also adhere to rules and regulations of FPU's Fats, Oils, and Grease (FOG) policy. All food service establishments shall be subject to FPU's Food Service Establishment Enforcement Response Guide (FSE-ERG).

(d) Temporary facilities. No person shall discharge any substance directly into a manhole or other opening in a sanitary sewer other than through an approved building sewer unless he has been issued a temporary permit by FPU. Permission may be granted at the discretion of FPU to provide for discharges from portable sanitary facilities for festivals or public shows or for other reasonable purposes. FPU shall incorporate in such a temporary permit such conditions as it deems reasonably necessary to ensure compliance with the provisions of this chapter.

(6) Private sewage pumping station. Each individual property owner or user of the POTW whose sewage discharge requires the use of a private sewage pumping station shall be entirely responsible for the maintenance and replacement, as required, of the pumping system specifically including the pumps, pump chamber, piping, valves, electrical components, and other appurtenances. Each such individual property owner or user of the POTW shall also be entirely responsible for all portions of the connecting piping from the

private sewage pumping station to the public sewer which is located on private property. Any private sewage pump system regulated by this chapter that is unsafe, or that constitutes an insanitary condition, or is otherwise dangerous to human life is hereby declared unsafe. Any use of private sewage pump systems regulated by this chapter constituting a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage or abandonment is hereby declared an unsafe use. Any such unsafe equipment is hereby declared a public nuisance and shall be abated by repair, rehabilitation, demolition, or removal. FPU may provide replacement or repair of the private sewage pump station in the event of an emergency or unsafe conditions and charge the owner for labor and materials or the fee necessary to have the work contracted. (1995 Code, § 18-206)

18-207. Availability of public sewer. (1) Where a public sanitary sewer is not available under the provisions of § 18-203(4), the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this section.

(2) Any residence, office, recreational facility, or other establishment used for human occupancy where the building sewer is below the elevation necessary to obtain a grade equivalent to one-eighth inch (1/8") per foot to the point of connection to the sewer but is otherwise accessible to a public sewer as provided in § 18-203, the owner shall provide a private sewage pumping station as provided in § 18-204(7)(h).

(3) Where a public sewer becomes available, the building sewer shall be connected to the public sewer within thirty (30) days after date of official notice to do so.

(4) FPU is authorized to require and issue letters of availability to any person seeking to determine whether sewer capacity is available for any parcel of property. Such letter may contain specific time limits and/or expiration dates. (1995 Code, § 18-207)

18-208. Requirements for private wastewater disposal. (1) A private domestic wastewater disposal system may not be constructed within FPU's sewer service area unless and until a certificate is obtained from FPU stating that a public sewer is not available to the property and no such sewer is proposed for construction in the immediate future. No certificate shall be issued for any private domestic wastewater disposal system employing subsurface soil absorption facilities where the area of the lot is less than that specified by the Lincoln County Health Department.

(2) Before commencement of construction of a subsurface soil absorption facility, the owner shall first obtain written permission from the Lincoln County Health Department. The owner shall supply any plans, specifications, and other information as are deemed necessary by the Lincoln County Health Department.

(3) A subsurface soil absorption facility shall not be placed in operation until the installation is completed to the satisfaction of the Lincoln County Health Department. They shall be allowed to inspect the work at any stage of construction and, in any event, the owner shall notify the Lincoln County Health Department when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within a reasonable period of time after the receipt of notice by the Lincoln County Health Department.

(4) The type, capacity, location, and layout of a subsurface soil absorption facility shall comply with all recommendations of TDEC and/or the Lincoln County Health Department. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

(5) The owner shall operate and maintain the subsurface soil absorption facility in a sanitary manner at all times, at no expense to FPU.

(6) No statement contained in this chapter shall be construed to interfere with any additional requirements that may be imposed by the Lincoln County Health Department. (1995 Code, § 18-208)

18-209. Holding tank waste disposal permit. (1) No person, firm, association or corporation shall haul in or truck to the POTW any type of domestic, commercial or industrial waste unless such person, firm, association or corporation obtains written approval from FPU to perform such acts or services. Any person, firm, association or corporation desiring a permit to perform such services shall file an application for discharge permit in compliance with the provisions of § 18-213 of this code

(2) It will be at the discretion of FPU to accept or refuse any truckload waste that could interfere with the operations of the POTW.

(3) Failure to comply with all provisions of the permit or this chapter shall be sufficient cause for the revocation of such permit by FPU. Fees will be established in a separate fee schedule adopted by FPU. (1995 Code, § 18-209)

18-210. Application for discharge of residential domestic wastewater. All users or prospective user which generate domestic wastewater shall make application to FPU for written authorization to discharge to the POTW. Applications shall be required from all new dischargers as well as for any existing discharger desiring additional service. Connection to the sewer shall not be made until the application is received and approved by FPU, the building sewer is installed in accordance with § 18-204 of this chapter and an inspection has been performed by FPU. (1995 Code, § 18-210)

18-211. Application for discharge of commercial or industrial wastewater. All commercial or industrial users proposing to connect to or contribute to the POTW shall obtain a wastewater discharge permit application before connecting to or contributing to the POTW. It may be determined through

the application that a user needs a discharge permit according to the provisions of federal and state laws and regulations. Applications shall be required from all new dischargers as well as for any existing discharger desiring additional service or where there is a planned change in the wastewater treatment process. (1995 Code, § 18-211)

18-212. General discharge prohibitions. (1) General prohibitions.

(a) A user may not introduce into the POTW any pollutant(s) which cause pass through or interference as defined herein or as defined in § 18-202. These general prohibitions and the specific prohibitions in subsection (2) of this section apply to each user introducing pollutants into the POTW whether or not the user is subject to other national categorical pretreatment standards or any national, state, or local pretreatment requirements.

(2) A user may not contribute the following substances to the POTW:

(a) Pollutants which create a fire or explosive hazard in the POTW; or 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, including but not limited to, wastestreams with a closed-cup flashpoint of less than one hundred forty degrees Fahrenheit (140° F) (sixty degrees Celsius (60° C)) using the test methods specified in 40 CFR 261.21;

(b) Any wastewater having a pH less than 5.5 or higher than 9.5 or any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW;

(c) Solid or viscous pollutants in amounts which may cause obstruction to the flow in a sewer line or to the POTW system resulting in interference as defined herein;

(d) Any pollutants, including oxygen demanding pollutants (BOD, COD, etc.) released at a flow rate and/or pollutant concentration which will cause interference to the POTW;

(e) 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 one hundred four degrees Fahrenheit (104° F) (forty degrees Celsius (40° C));

(f) Petroleum oil, nonbiodegradable 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) Any trucked or hauled pollutants or holding tank waste unless granted a permit;

(i) Any noxious or malodorous liquids, gases, or solids which 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 maintenance and repair;

(j) Any wastewater causing discoloration of the wastewater treatment plant effluent to the extent that the receiving stream water quality requirements would be violated, such as, but not limited to, dye wastes and vegetable tanning solutions;

(k) Any wastewater containing any radioactive wastes or isotopes except in compliance with applicable state or federal regulations;

(l) Any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. (Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by FPU and TDEC. Industrial cooling water or unpolluted process waters may be discharged on approval of FPU and TDEC, to storm sewer or natural outlet);

(m) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludge, or scum, to be unsuitable for reclamation and reuse or to interfere with the reclamation process (in no case, shall a substance discharged to the POTW cause the POTW to be in non-compliance with sludge use or disposal criteria, guidelines, or regulations developed under section 405 of the Act; or 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);

(n) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail toxicity test, or to violate its NPDES permit;

(o) Any wastewater containing any toxic pollutants, chemical elements, or compounds in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in 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);

(p) Any waters or wastes causing an unusual volume of flow or concentration of waste constituting a "slug discharge" as defined herein;

(q) Any wastewater which causes a hazard to human life or creates a public nuisance;

(r) Any waters or wastes containing fats, wax, grease, or oil, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which solidify or become viscous at temperature between thirty-two and one hundred forty degrees Fahrenheit (32° and 140° F) (zero and sixty degrees Celsius (0° and 60° C)), or lower concentrations that are shown to interfere with the POTW; or

(s) Any substance which if otherwise disposed of would be classified as a hazardous waste under 40 CFR 261; or

(t) Detergents, surface active agents, or other substances that cause excessive foaming at the POTW; or

(u) Medical waste, including isolation waste, infectious agents, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, and dialysis wastes, except as specifically authorized by FPU in a wastewater discharge permit; or

(v) Any water or wastes which exceed maximum concentrations listed in Table B of § 18-213; or

(w) Except where expressly authorized to do so by an applicable pretreatment standard or requirement, no industrial user shall ever increase the use of process water, or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a pretreatment standard or requirement. (1995 Code, § 18-212)

18-213. Restrictions on wastewater strength. (1) Plant protection. No person or user shall discharge wastewater which exceeds the plant protection criteria unless an application for discharge of commercial or industrial wastewater has been filed and an industrial wastewater discharge permit has been granted as stated in § 18-211 of this chapter. The plant protection criteria shall be set forth in a separate schedule that may be modified from time to time by FPU.

(2) Local limitations. No IU, SIU, or person shall discharge, directly or indirectly, into the POTW, wastewater containing any substances in concentrations exceeding those contained in the local limits schedule. The local limits shall be set forth in a separate schedule that may be modified from time to time by FPU. Concentration limits are applicable to the wastewater effluent point prior to discharge into the POTW (end of pipe concentrations).

(a) To assure that the local limits are not violated, FPU shall issue permits to significant industrial users limiting the discharge of the substances noted in the local limits schedule.

(b) Limitations on local limit wastewater strength may be supplemented if the limitations in the local limits schedule:

(i) Are not sufficient to protect the POTW;

(ii) Are not sufficient to allow the POTW to comply with applicable water quality standards;

(iii) Are not sufficient for the POTW biosolids to render acceptable limits for disposal; or

(iv) Will cause endangerment to the public or FPU.

(c) The local limit schedule shall be reviewed and recalculated at least once every five (5) years. Any industrial wastewater discharge permits which are affected shall be revised and amended appropriately.

(d) No user shall increase the use of process water or, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a pretreatment standard (40 CFR 403.6d).

(3) Upon the promulgation of a national categorical pretreatment standard the standard, if more stringent than the limitations in the local limits schedule, shall immediately supersede the limitations imposed in the local limits schedule.

(4) Surcharge fees. Any discharge which has characteristics based on a composite or grab sample which exceed the following normal maximum domestic wastewater parameter concentrations listed in Table A will be subject to surcharge fees contained in the most current schedule adopted by FPU. Surcharges are intended to recover the cost of treating high strength discharges.

Surcharge Criteria Table A	
Parameter	Concentration
Biochemical Oxygen Demand	250 mg/l
Chemical Oxygen Demand	500 mg/l
Total Suspended Solids	250 mg/l
Total Kjeldahl Nitrogen	40 mg/l

(5) Daily maximum limits. The maximum concentration of a pollutant listed in Table B that can be discharged without enforcement action being taken. Exceeding daily maximum limits will result in enforcement action as listed in Enforcement Response Plan (ERP).

Daily Maximum Limits Table B	
Parameter	Concentration
Biochemical Oxygen Demand	650 mg/l

Chemical Oxygen Demand	1,300 mg/l
Total Suspended Solids	650 mg/l
Total Kjeldahl Nitrogen	100 mg/l

(1995 Code, § 18-213)

18-214. Protection of treatment plan influent--more restrictive criteria. FPU may regulate the protection of the treatment plant influent by requiring specific wastewater discharge criteria which would be more restrictive than the plant protection criteria or local limits when wastes are determined to be harmful or destructive to the POTW, to create a public nuisance, to cause the discharge of the POTW to violate effluent or stream quality standards, to interfere with the use or handling of sludge, to pass through the POTW resulting in a violation of the NPDES permit, or to exceed industrial standards for discharge to municipal POTWs as imposed or as may be imposed by TDEC and/or the EPA. (1995 Code, § 18-214)

18-215. Industrial pretreatment regulations. In order to comply with federal industrial pretreatment rules 40 CFR 403 and Tennessee Pretreatment Rules 1200-4-14 and to fulfill the purpose and policy of this chapter the following regulations are adopted:

(1) All system users must follow the general discharge specifications stated in §§ 18-212 and 18-213 of this chapter.

(2) Discharge users wishing to discharge pollutants at higher concentrations than the plant protection criteria of § 18-213 of this chapter, or those dischargers who are classified as significant industrial users will be required to meet the requirements of this chapter. Users who discharge waste which falls under the criteria specified in this chapter and who fail to or refuse to follow the provisions shall face termination of service and/or enforcement action specified in § 18-219.

(a) Discharge users to the sewer system shall be regulated through the use of a permit system.

(b) Discharge permits shall limit concentrations of discharge pollutants to those levels that are established as local limits or other applicable state and federal pretreatment rules which may be in effect or take effect after the passage of this chapter.

(3) Application contents shall include, but not be limited to the following information:

(a) Identifying information;

(b) Name, address, contact/owner information;

(c) A list of permits currently held by the facility;

- (d) A description of operations and type of waste including volumes;
- (e) Known constituents and characteristics including those listed in § 18-218;
- (f) Daily, monthly and seasonal or peak flows;
- (g) A description of all chemicals and raw materials handled on the premises;
- (h) Product produced by type, amount, process and rate of production;
- (i) Number of employees and hours of operation;
- (j) Site plans, floor plans showing all sewers, floor drains, and appurtenances by size, location and elevation, and all points of discharge;
- (k) Proposed locations for monitoring each waste stream to be covered by the permit;
- (l) Proposed pretreatment systems or equipment and/or operation and maintenance procedures necessary to meet applicable pretreatment standards and requirements; and
- (m) Any other information deemed necessary by FPU.

(4) New construction or additional facilities that may be required by a user for pretreatment shall, as part of the application for wastewater discharge permit, submit plans, specifications, and other pertinent information relative to the proposed construction to FPU for approval. Plans and specifications submitted for approval must bear the seal of a professional engineer registered to practice engineering in the State of Tennessee. A wastewater discharge permit shall not be issued until such plans and specifications have been approved. Such approval shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent under the provisions of this chapter.

(5) If additional pretreatment and/or operation and maintenance will be required to meet the pretreatment standards and pretreatment requirements, the application shall include the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard.

(6) Schedules required by subsection (5) of this section shall maintain the following conditions:

- (a) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the industrial user to meet the applicable categorical pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.). No increment of progress shall exceed nine (9) months.

(b) No later than fourteen (14) days following each date in the schedule and the final date for compliance, the industrial user shall submit a progress report to FPU including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps taken by the industrial user to return the construction to the schedule established. In no event shall more than nine (9) months elapse between such progress reports to FPU.

(7) Evaluation of the data from the application furnished by the user will be completed by FPU. Additional information may be required. After acceptance of the data furnished, FPU may issue a wastewater discharge permit subject to terms and conditions provided herein.

(8) The receipt by FPU of a prospective customer's application for wastewater discharge permit shall not obligate FPU to render the wastewater collection and treatment service. If the service applied for cannot be supplied in accordance with this chapter or FPU's rules and regulations and general practice, the application shall be rejected and there shall be no liability of FPU to the applicant of such service.

(9) Applications containing all the information required in this section will be acted on by FPU. Persons who have filed incomplete applications will be notified that the application is deficient and of the nature of such deficiency. The applicant will be given thirty (30) days to make the proper corrections. If the deficiency is not corrected within thirty (30) days or within such extended period as allowed, FPU shall submit the application to the FPU board with a recommendation that it be denied and notify the applicant in writing of such action.

(10) Applications for wastewater discharge permits shall be signed by the authorized representative.

(11) Permit contents. (a) Wastewater discharge permits shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges, and fees established by FPU. All wastewater discharge permits shall contain at a minimum the following:

(i) Statement of duration (issuance date, expiration date, and effective date) not to exceed five (5) years;

(ii) Statement of non-transferability;

(iii) Effluent limits, including BMPs; based on applicable pretreatment standards;

(iv) Self monitoring, sampling, reporting, notification, and record-keeping requirements, including identification of the pollutants to be monitored, sampling location, sampling frequency, and sample type, based on federal, state and local law;

(v) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedules (such schedules may not extend

the compliance beyond that required by applicable federal, state, or local laws);

(vi) Requirements to control slug discharges, if determined by FPU to be necessary;

(vii) Immediate notification requirements of any changes at the facility affecting potential for a slug discharge; and

(viii) A statement allowing for the installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices.

(b) Additionally, permits may contain the following:

(i) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a public sewer;

(ii) Requirements for the development of spill control plans necessary to prevent accidental or unanticipated discharges;

(iii) Limits on average and maximum rates and time of discharge or requirements and for equalization;

(iv) Requirements for installation and maintenance of inspections and sampling facilities, including flow measurement devices; and

(v) Other conditions as deemed appropriate by FPU to ensure compliance with this chapter.

(12) Permit modifications. Within nine (9) months of the promulgation of a national categorical pretreatment standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. A user with an existing wastewater discharge permit shall submit to FPU within one hundred eighty (180) days after the promulgation of an applicable national categorical pretreatment standard the information required by § 18-215(3) and (4). The user shall be informed of any proposed changes in this permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance unless state or federal regulations set a specific time schedule. The terms and conditions of the permit may be subject to modification by FPU during the term of the permit in accordance with the following conditions:

(a) To incorporate any new or revised federal, state, or local pretreatment standards or requirements, including changes in the POTW's pass-through limits or NPDES permit limitations;

(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 a permanent reduction of the authorized discharge;

(d) Information indicating that the permitted discharge poses a threat to the POTW, FPU personnel, or the receiving waters;

(e) Violation of the terms of conditions of the wastewater discharge permit;

(f) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in the required reporting;

(g) To correct typographical or other errors in the wastewater discharge permit; or

(h) To reflect transfer of facility ownership or operation to a new owner or operator.

(13) Permit duration. Permits shall be issued for a specified time period, not to exceed five (5) years. 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. Permit is voidable by the utility upon nonuser, cessation of operations, or transfer of business ownership. Permit is void upon issuance of a new wastewater discharge permit.

(14) Permit transfer. Wastewater discharge permits are non-transferable. A wastewater discharge permit shall not be reassigned, transferred, or sold to a new owner, new user, different premises, or a new or changed operation.

(15) Revocation of permit. Any permit issued under the provisions of this chapter is subject to be revoked in whole or in part during its term for causes including, but not limited to, the following:

(a) Violation of any terms or conditions of the wastewater discharge permit or other applicable federal, state, or local law or regulation;

(b) Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts;

(c) A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge;

(d) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring;

(e) Failure to notify FPU of significant changes to the wastewater prior to changed discharge;

(f) Falsifying self-monitoring reports and certification statements;

(g) Tampering with monitoring equipment;

(h) Failure to comply with the requirements of an enforcement notice or order;

(i) Operating with an expired wastewater discharge permit (unless timely application for renewal has been submitted); or

(j) Failure to provide advance notice of the transfer of business ownership.

(16) Confidential information. All information and data on a user obtained from reports, questionnaire permit application, permits and monitoring

programs, and from inspections shall be available to the public or any other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of FPU that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets of the user.

When requested by the person furnishing the report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available to governmental agencies for use related to this chapter, FPU's NPDES permit, or the user's NPDES permit. Provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

Information accepted by FPU as confidential shall not be transmitted to any governmental agency or to the general public by FPU until and unless prior and adequate notification is given to the user. (1995 Code, § 18-215)

18-216. Industrial pretreatment requirements. (1) Monitoring facilities. The installation of a monitoring facility may be required for any industrial user. A monitoring facility may be a manhole or other suitable facility approved by FPU. When in the judgment of FPU there is a significant difference in wastewater constituents and characteristics produced by different operations of a single user, FPU may require that separate monitoring facilities be installed for each separate source of discharge. Monitoring facilities shall be constructed and maintained at the user's expense. The purpose of the facility is to enable inspection, sampling and flow measurement of wastewater produced by a user. If sampling or metering equipment is required, it shall be provided and installed at the user's expense. All sampling and metering equipment shall be approved by FPU before installation. The monitoring facility will normally be required to be located on the user's premises outside of the building. There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. Whether constructed on public or private property, the monitoring facility shall be constructed in accordance with FPU's requirements and all applicable FPU construction standards and specifications. When, in the judgment of FPU, an existing user requires a monitoring facility, the user will be so notified in writing. Construction must be completed within one hundred eighty (180) days following written notification unless an extension is granted by FPU.

(2) Housekeeping. The facility and sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition, and kept clean, at the expense of the user. 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.

(3) Inspection and sampling. FPU will 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 FPU ready access at all reasonable times to all parts of the premises for the purpose of inspection, sampling, records examination or in the performance of any of their duties. FPU, the approval authority, or the EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring, and/or metering operations. Where a user has security measures to enforce which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, FPU, the approval authority, or the EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. FPU will inspect and sample the effluent from each significant industrial user at least once every twelve (12) months.

(4) Safety. While performing the necessary work on private properties, FPU shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to FPU employees. FPU shall indemnify the company against loss or damage to its property by FPU employees and against liability claims and demands for personal injury or property damages asserted against the company and growing out of the monitoring and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions.

(5) Accidental and slug discharge requirements. (a) Protection from accidental and slug discharge. All industrial users shall provide such facilities and institute such procedures as are reasonably necessary to prevent or minimize the potential for accidental or slug discharge in the POTW of waste regulated by this chapter from liquid or raw material storage areas, from truck and rail car loading and unloading areas, from in-plant transfer or processing and materials handling areas, and from dikes or holding ponds of any waste regulated by this chapter. The wastewater discharge permit of any user who has a history of significant leaks, spills, or other accidental discharge of waste regulated by this chapter shall be subject on a case-by-case basis to a special permit condition or requirement for the construction of facilities or establishment of procedures which will prevent or minimize the potential for such accidental discharge. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the user's expense. Detailed plans showing the facilities and operating procedures shall be submitted to FPU before the facility is constructed. The review and approval of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility to provide the protection necessary to meet the requirements of this chapter.

(b) Notification of accidental discharge or slug discharge. Any person causing or suffering any slug or accidental discharge or a discharge, whether accidental or not, which presents or may present an imminent or substantial endangerment to human health and welfare or the environment, or which is likely to cause interference with the POTW, shall immediately notify FPU by telephone to enable countermeasures to be taken to minimize damage to the POTW, the health and welfare of the public, and the environment. The notification shall include the location of the discharge, type of waste, concentration and volume (if known), and corrective action taken by user.

This notification shall be followed, within five (5) days of the date of occurrence, by a detailed written statement describing the cause of the discharge and the measures being taken to prevent future occurrences.

Such notification will not relieve the user of liability for any expense, loss or damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this chapter or state or federal law.

(c) Slug discharge control program. FPU shall evaluate whether each significant industrial user needs a plan or procedure to control accidental or slug discharges. For new sources, this evaluation must be performed within twelve (12) months of commencing discharge. If FPU decides that an accident or slug discharge control plan is needed, the plan shall contain, at a minimum, the following elements:

(i) Description of discharge practices, including non-routine batch discharges;

(ii) Description of stored chemicals;

(iii) Procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate a prohibition under §§ 18-212 or 18-213, with procedures for follow-up written notification within five (5) days;

(iv) Any necessary procedures to prevent accidental spills, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, and worker training;

(v) Any necessary measures for building containment structures or equipment;

(vi) Any additional measures necessary for containing toxic organic pollutants (including solvents);

(vii) Any necessary procedures and equipment for emergency response; and

(viii) Any necessary follow-up practices to limit the damage suffered by the POTW or the environment.

(6) Bypass. (a) For the purposes of this section:

(i) Bypass means the intentional diversion of wastestreams from any portion of a user's treatment facility.

(ii) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(b) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of subsections (c) and (d) of this section.

(c) Bypass notifications:

(i) If a user knows in advance of the need for a bypass, it shall submit prior notice to FPU, at least ten (10) days before the date of the bypass, if possible.

(ii) A user shall submit oral notice to FPU of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. FPU may waive the written report on a case by case basis if the oral report has been received within twenty-four (24) hours.

(d) Bypass. (i) Bypass is prohibited, and FPU may take an enforcement action against a user for a bypass, unless:

(A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(C) The user submitted notices as required under subsection (c) of this section.

(ii) FPU may approve an anticipated bypass, after considering its adverse effects, if FPU determines that it will meet the three (3) conditions listed in subsection (d)(i) of this section. (1995 Code, § 18-216)

18-217. National categorical pretreatment standards. Upon the promulgation of the national categorical pretreatment standards for a particular industrial subcategory, the national categorical standard, if more stringent than limitations imposed under the chapter for sources in that subcategory, shall immediately supersede the limitations imposed under this chapter. FPU shall notify all affected users of the applicable reporting requirements under 40 CFR, section 403.12. Compliance with national categorical pretreatment standards for existing sources subject to such standards, or for existing sources which hereafter become subject to such standards, shall be achieved within three (3) years following promulgation of the standards unless a shorter compliance time is specified. Compliance for new sources shall be required upon promulgation. New sources shall have in operating condition and shall start up all pollution control equipment required to meet applicable pretreatment standards before beginning to discharge within the shortest feasible time (not to exceed ninety (90) day). New sources must meet all applicable pretreatment standards. (1995 Code, § 18-217)

18-218. Reporting requirements. Users, whether permitted or not permitted, may be required to submit reports detailing the nature and characteristics of their discharges according to the following subsections. Failure to make a requested report in the specified time is a violation subject to enforcement actions.

(1) **Baseline monitoring report.** 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 1200-4-14-.06(1)(d), whichever is later, existing categorical industrial users currently discharging to or scheduled to discharge to the POTW shall submit to FPU a report which contains the information listed 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 FPU a report which contains the information listed in subsections (a) through (h) below, including the method of pretreatment it intends to use to meet applicable flow and quantity of pollutants to be discharged. New sources shall provide estimates of the information requested in subsections (d) and (e) below.

(a) **Identifying information.** The username, address of the facility including the name of operators and owners.

(b) **Permit information.** A listing of any environmental control permits held by or for the facility.

(c) Description of operations. A description of the nature, average rate of production, and SIC codes of the operation(s) carried out by the user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.

(d) Flow measurement. Shows the measured average daily and maximum daily flow, in gallons per day, to the POTW from each regulated process stream and any other stream necessary to allow use of the combined waste stream formula.

(e) Measurement of pollutant. (i) Identify the pretreatment standards applicable to each regulated process and any new categorically regulated process(es) for existing sources.

(ii) Report the results of sampling or analytical results identifying the nature and concentration (or mass, where required by the standard or FPU) of regulated pollutants in each regulated process. Both daily maximum and average (mass) concentrations shall be reported. The sample shall be representative of daily operation. In cases where the standard shall be representative of daily operation. In cases where the standard requires compliance with BMPs or pollution prevention alternatives, the user shall submit documentation as required by FPU to determine compliance with the standard.

(iii) The user shall take a minimum of one representative sample to compile data necessary to comply with the pretreatment standards.

(iii) The user shall take a minimum of one (1) representative sample to compile data necessary to comply with the pretreatment standards.

(iv) Samples should be taken immediately downstream from the pretreatment facilities, if such exist, or the regulated process, if no pretreatment is provided. 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 waste stream formula.

(v) Sampling and analyses shall be performed in accordance with the techniques prescribed in 40 CFR, part 136 and amendments thereto, unless otherwise specified in an applicable categorical 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 the EPA and FPU.

(vi) FPU may allow the submissions of a baseline report which utilizes only historical data provided the information is sufficient to determine the need for industrial pretreatment measures.

(vii) 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.

(f) Compliance certification. A statement reviewed by the user's authorized representative and certified by a qualified professional, indication whether pretreatment standards are being met on a consistent basis, and if not, whether an additional operation and maintenance and/or additional pretreatment is required to meet the pretreatment requirements.

(g) Compliance schedule. If additional pretreatment and/or operation and maintenance will be required to meet the pretreatment standards; the shortest schedule by which the industrial user will provide such additional pretreatment and/or operation and maintenance must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard.

(h) Signature and report certification. The report must be signed by a duly authorized representative of the user and must contain the certification as specified in § 18-218(12).

(2) Compliance schedule progress reports. A compliance schedule pursuant to this section must contain the following:

(a) Progress schedule shall contain increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required.

(b) No increment referred to above shall exceed nine (9) months.

(c) Progress reports shall be submitted by the user to FPU no later than fourteen (14) days following each date in the schedule and the final date of compliance including, at 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 the established schedule.

(3) Compliance report with categorical pretreatment standard deadline. Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standard, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any industrial user is subject to such pretreatment standards and requirements shall submit to FPU a report containing the information described in § 18-218(1) of this rule. 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 (or other measure of operation) during the appropriate sampling period. All compliance reports must be signed and certified in accordance with subsection (12) of this section. All sampling will be done in conformance with subsection (8).

(4) Periodic reports on continued compliance. (a) All significant and categorical industrial users must, at a frequency determined by FPU, submit no less than twice per year (April 10 and October 10) reports indicating the nature and 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 BMP or pollution prevention alternative, the user must submit documentation required by FPU or the pretreatment standard necessary to determine the compliance status of the user.

(b) All compliance reports must be signed and certified in by the authorized representative of the industrial user as defined in the definitions of this chapter.

(c) 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 a 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 this discharge.

(d) If a user subject to the reporting requirements in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by FPU, using procedures prescribed in this section, the results of this monitoring shall be included in the report.

(5) Reports of changed conditions. Each user must notify FPU of any significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least sixty (60) days before the change.

(a) FPU 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.

(b) FPU may modify an existing wastewater discharge permit in response to changed conditions or anticipated changed conditions.

(c) In the case of any non-routine discharge the user shall immediately telephone and notify the FPU of the incident stating the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user. Within five (5) days following such discharge, the user shall submit a detailed written report describing the cause(s) of the discharge and the measures taken or to be taken 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 the damage to 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.

(d) 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 above. Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.

(e) Significant industrial users are required to notify FPU immediately of any changes at the facility affecting the potential for a slug discharge. All users not required to obtain an individual wastewater discharge permit shall provide appropriate reports that may be required by FPU to determine user status.

(f) All users not required to obtain an individual wastewater discharge permit shall provide appropriate reports that may be required by FPU to determine user status.

(6) Reporting of violation. If sampling performed by an industrial user indicates a violation, the user shall notify FPU within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis within fourteen (14) days of the notification, and submit the results of the repeat analysis to FPU. Where FPU has performed the sampling and analysis in lieu of the industrial user, FPU must perform the repeat sampling and analysis unless it notifies the user of the violation and requires the user to perform the repeat analysis.

(7) Hazardous waste discharges. Any waste which if otherwise disposed of would be a hazardous waste as defined in 40 CFR 261 shall not be discharged into FPU's sewer system.

(8) Sampling analysis and 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.

(a) Chain-of-custody procedures, sample preservation techniques, and sample holding times recommended by the EPA shall be followed in all self-monitoring activities.

(b) Monitoring shall be performed at the approved monitoring station on the effluent sewer. Location and design of the monitoring station shall be subject to the review and approval of FPU. Any change in monitoring location will be subject to the approval of FPU.

(c) Sampling and analyses shall be performed in accordance with the techniques prescribed in 40 CFR, part 136 and amendments thereto. 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 the EPA and FPU.

(d) Except as indicated in subsections (e) and (f) 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 FPU. Where time-proportional composite sampling or grab sampling is authorized, 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 analysis as follows: for cyanide, total phenols, and sulfides, the samples may be composited in a laboratory or in the field; for volatile organic 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 FPU, as appropriate. Additional grab samples may be required to show compliance with instantaneous limits.

(e) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques. Alternately, pH compliance may be accessed through the use of a strip-chart or a circular chart over the monitoring period from a continuous pH recorder, at the discretion of FPU.

(f) For sampling required in support of baseline monitoring and ninety (90) day compliance reports required in (1) and (3) of this section, a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfides, and volatile organic compounds for facilities for which historical sampling data do not exist. For facilities for which historical sampling data are available, FPU may authorize a lower minimum. For reports required by section (4)(a) and 40 CFR 403.12(2) and (h), the industrial user is required to collect the number of grab samples necessary to assess and assure compliance with applicable pretreatment standards.

(9) Date of receipt of reports. Reports will be deemed to have been submitted on the date post-marked or e-mailed.

(10) Maintenance of records. Any industrial user subject to the reporting requirements established in this section shall maintain records of all information resulting from any monitoring activities required by this section.

(11) Retention of records. (a) Users subject to the reporting requirements established in this chapter shall maintain records of all information resulting from any monitoring activities required by this

rule, including documentation associated with best management practices. Such records shall include for all samples:

- (i) The date, exact place, method, and time of sampling and the names of the person or persons taking the samples;
- (ii) The dates analyses were performed;
- (iii) Who performed the analyses;
- (iv) The analytical techniques/methods used; and
- (v) The results of such analyses.

(b) Any industrial user subject to the reporting requirements established in this rule (including documentation associated with best management practices) shall be required to retain for a minimum of three (3) years any records of monitoring activities and results (whether or not such monitoring activities are required by this rule) and shall make such records available for inspection and copying by the EPA or FPU. This period of retention shall be extended during the course of any unresolved litigation regarding the industrial user, the POTW, the operation of FPU's pretreatment program, or when requested by EPA or FPU.

(c) FPU shall retain such reports for a minimum of three (3) years and shall make such reports available for inspection and copying by the EPA. This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the industrial user or the operation of FPU's pretreatment program or when requested by the EPA.

(12) Signatory and certification requirements. All permit applications and reports associated with compliance with the pretreatment program shall be signed by a duly authorized representative of the industrial user or the person delegated by a duly authorized representative of the industrial user, and shall have the following certification statement attached:

"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." (1995 Code, § 18-218)

18-219. Enforcement plan. Whenever FPU has reason to believe that a violation of provisions of the pretreatment program or orders of the FPU board issued pursuant thereto has occurred, is occurring, or is about to occur, FPU

may serve any one (1) or more of the following upon the alleged violator or violators:

(1) Written complaint. The complaint shall specify the provisions of the pretreatment program or order alleged to be violated or about to be violated and the facts alleged to constitute a violation thereof, may order that necessary corrective action be taken within a reasonable time to be prescribed in the order, and shall inform the violators of the opportunity for a hearing before the FPU board.

(2) Notice of violation. A violation to this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment requirement may prompt FPU to issue a written notice of violation. Within fifteen (15) calendar days of the day of the notice an explanation of the violation and a plan for its satisfactory correction and prevention shall be submitted to FPU.

(3) Compliance order. FPU may issue an order to the noncompliant commercial or industrial user to achieve or restore compliance with their permit by a date specified in the order. The compliance order may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including, but not limited to, the installation and proper operation of pretreatment technology, additional self-monitoring, and management practices.

(4) Consent order. FPU is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the industrial user responsible for the noncompliance. Such orders will include specific action to be taken by the user to correct the noncompliance within a time period also specified by the order.

(5) Cease and desist order. When FPU finds that a wastewater discharge has taken place in violation of prohibitions or limitations of this chapter, or the provisions of a wastewater discharge permit, FPU may issue an order to cease and desist, and direct the persons not complying with such prohibitions, limits, requirements, or provisions to immediately halt illegal or unauthorized discharges or to surrender the applicable user's permit if ordered to do so after a show cause hearing.

(6) Show cause order. (a) FPU may order any user who causes or allows an unauthorized discharge to enter the POTW to show cause why the proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place of a hearing to be held regarding the violation, the reasons why the action is being taken, the proposed enforcement, and directing the user to show cause as to why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing.

(b) FPU may conduct the hearing and take evidence, or may designate a representative to:

(i) Issue in the name of FPU notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;

(ii) Take the evidence; and

(iii) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the manager for action thereon.

(c) At any hearing held pursuant to this chapter, testimony taken must be under oath and recorded. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of a charge set by the manager to cover the costs of preparation.

(d) After FPU has reviewed the evidence, he may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices, or other related appurtenances have been installed on existing treatment facilities, and that these devices or other related appurtenances are properly operated. Further order and devices or other related appurtenances are properly operated. Further order and directives as are necessary and appropriate may be issued. Failure of FPU to issue any order to a violating user shall not in any way relieve the user from any consequences of a wrongful or illegal discharge. Any order shall become final and not subject to review unless the person or persons named therein request by written petition a hearing before the FPU board as provided in § 18-223 no later than thirty (30) days after the date such order is served; provided, however, that the FPU board may review such final order on the same grounds upon which a court of the state may review default judgments.

(7) Emergency order. In the event of an actual or threatened discharge to the POTW of any pollutant which, in the opinion of FPU, presents or may present an imminent and substantial endangerment to the health or welfare of persons or cause interference with the POTW, FPU or person then in charge of the treatment works shall immediately notify the FPU board of the nature of the emergency. FPU shall also attempt to notify the industrial user or person causing the emergency and request their assistance in abating the emergency. Following consultation, FPU shall temporarily terminate the service of such user or users as are necessary to abate the condition when such action appears reasonably necessary. Such service shall be restored by FPU as soon as the emergency situation has been abated or corrected.

(8) Termination of permit. Significant industrial users proposing to discharge into the POTW must first obtain a wastewater discharge permit from FPU. Noncompliant industrial users will be notified of the proposed termination of their wastewater permit and be offered an opportunity to show cause why the

proposed action should not be taken. Any user who violates the following conditions of this chapter, a wastewater discharge permit or order, or any applicable state or federal law, is subject to permit termination:

- (a) Violation of any terms or conditions of the wastewater discharge permit or other applicable federal, state, or local law or regulation;
- (b) Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts;
- (c) A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge;
- (d) Refusal of reasonable access to the user's premise for the purpose of inspection or monitoring;
- (e) Failure to notify FPU of significant changes to the wastewater prior to changed discharge;
- (f) Falsifying self-monitoring reports and certification statements;
- (g) Tampering with monitoring equipment;
- (h) Failure to comply with the requirements of an enforcement notice or order;
- (i) Operating with an expired wastewater discharge permit (unless timely application for renewal has been submitted); or
- (j) Failure to provide advance notice of the transfer of business ownership.

(9) Civil liabilities. Any person or user who violates any provision of this chapter, requirements, or conditions set forth in the permit duly issued or who discharges wastewater which causes pollution or violates any cease and desist order, prohibition, effluent limitation, national standard, or performance, pretreatment, or toxicity standard, shall be liable civilly. FPU may sue for such damages in any court of competent jurisdiction. In determining the damages, the court shall take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs, and the correcting action, if any.

(10) Civil penalties. Under the Tennessee Rule 1200-4-14-.08(6)(a)6.(1), FPU shall have authority to seek or assess civil or criminal penalties of up to ten thousand dollars (\$10,000.00) per day per offense. Each day of which a violation occurs or continues to occur shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the FPU board may recover reasonable attorney fees, court costs, court reporter fees, and other expenses of litigation by appropriate suit at law against the person found to have violated this chapter or the orders, rules, regulations, or permits issued hereunder.

Civil penalties may be added to the user's next scheduled sewer service charge and FPU shall have such other remedies to collect the penalties as it has of other service charges. Industrial users desiring to dispute such penalties may

secure a review of such assessment by filing with a FPU a written petition setting forth the grounds and reasons for the objections and asking for a hearing in the matter involved before the FPU board. 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. Upon receipt of the written petition from the alleged violator pursuant to this section, FPU 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 FPU and the petitioner agree to postponement.

(11) Annual publication of significant noncompliance. Meaningful public notification of significant industrial users which were in significant noncompliance with applicable pretreatment standards or pretreatment requirements during the previous twelve (12) months shall be published annually by FPU in a newspaper of general circulation within the jurisdictions served by the POTW. Such publication also may summarize any enforcement action taken against each entity listed during the same twelve (12) month period. For the purpose of this provision, a significant industrial user has been defined in § 18-202 of this chapter.

(12) Provisions governing fraud and false statements. The reports required to be submitted under this section shall be subject to the provisions of 18 U.S.C. § 1001 relating to fraud and false statements and the provisions of sections 309(C)(4) and (6) of the Act (33 USCA § 1311), as amended, governing false statements, representation, and certifications in reports required under the Act. (1995 Code, § 18-219)

18-220. Public nuisance. Discharges of wastewater in any manner in violation of this chapter or of any order issued by FPU as authorized by this chapter, is hereby declared a public nuisance and shall be corrected or abated as directed by FPU. Any person creating a public nuisance shall be subject to the provisions of the city codes or chapters governing such nuisance. (1995 Code, § 18-220)

18-221. Damage to facilities. When a discharge of wastes causes obstruction, damage or any other physical or operational impairment to facilities, FPU shall assess a charge against the user for the work required to clean or repair the facility and add such charge to the user's sewer service charge. (1995 Code, § 18-221)

18-222. Legal action. If any person discharges sewage, industrial wastes, or other wastes into FPU's wastewater disposal system contrary to the provisions of this chapter, federal or state pretreatment requirements, or any order of FPU, FPU's attorney may commence an action for appropriate legal

and/or equitable relief in the chancery court of this county. (1995 Code, § 18-222)

18-223. Pretreatment enforcement hearings and appeals. The FPU board shall have and exercise the power, duty, and responsibility to hear appeals from orders issued and penalties or damages assessed by FPU, or permit revocations or modifications; and affirm, modify, or revoke such actions or orders of FPU. Any hearing or rehearing brought before the FPU board shall be conducted in accordance with the following:

(1) Upon receipt of a written petition from the alleged violator pursuant to this section, FPU shall give the petitioner thirty (30) days' written notice of the time and place for the hearing, but in no case shall such hearing be held more than sixty (60) days from the receipt of the written petition, unless FPU and the petitioner agree to a postponement.

(2) The hearing herein provided may be conducted by the FPU board at a regular or special meeting. A quorum of the FPU board must be presented at the regular or special meeting in order to conduct the hearing herein provided.

(3) A verbatim record of the proceedings of such hearings shall be taken and filed with the FPU board, together with the findings of fact and conclusions of law made pursuant to subsection (6) of this section. The transcript so recorded shall be made available to the petitioner or any party to a hearing upon payment of a charge set by FPU to cover the costs of preparation.

(4) In connection with the hearing, the chairman shall issue subpoenas in response to any reasonable request by any party to the hearing requiring the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing. In case of contumacy or refusal to obey a notice of hearing or subpoena issued under this section, the chancery court of the county in which FPU is located shall have jurisdiction upon the application of the FPU board or FPU to issue an order requiring such person to appear and testify or produce evidence as the case may require and any failure to obey such order of the court may be punished by such court as contempt thereof.

(5) Any member of the FPU board may administer oaths and examine witnesses.

(6) On the basis of the evidence produced at the hearing, the FPU board shall make findings of fact and conclusions of law and enter such decisions and orders as in its opinion will best further the purposes of the pretreatment program and shall give written notice of such decisions and orders to the alleged violator. The order issued under this subsection shall be issued no later than thirty (30) days following the close of the hearing by the person or persons designated by the chairman.

(7) The decision of the FPU board shall become final and binding on all parties unless appealed to the courts as provided in subsection (2).

(8) Any person to whom an emergency order is directed pursuant to § 18-219(7) shall comply therewith immediately but upon petition to the FPU

board 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 FPU board. An appeal may be taken from any final order or other final determination of the FPU board by any party, including FPU, who is or may be adversely affected thereby, to the chancery court pursuant to the common law right of certiorari set out in *Tennessee Code Annotated*, § 27-8-101, within sixty (60) days from the date such order or determination is made. (1995 Code, § 18-223)

18-224. Affirmative defenses to discharge violations. (1) **Upset.**

(a) For the purposes of this section, upset means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(b) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of subsection (c), below, are met.

(c) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(i) An upset occurred and the user can identify the cause(s) of the upset;

(ii) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and

(iii) The user has submitted the following information to FPU within twenty-four (24) hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five (5) days):

(A) Description of the indirect discharge and cause of noncompliance;

(B) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

(C) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

(d) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

(e) Users shall have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

(f) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

(2) **Prohibited discharge standards.** (a) User shall have an affirmative defense in any action brought against it alleging a violation of the general prohibitions established in § 18-212(1)(a) and the specific prohibitions in subsections (2)(c), (2)(d), (2)(e), (2)(f), and (2)(g) of § 18-212(1) where the user can demonstrate that:

(i) It did not know or have reason to know that its discharge, alone or in conjunction with a discharge or discharges from other sources, would cause pass through or interference; and

(ii) A local limit designed to prevent pass through and/or interference, as the case may be, fits one of the following descriptions:

(A) The local limit was developed in accordance with Tennessee Rule 1200-4-14-.05(3) for each pollutant in the user's discharge that caused pass through or interference, and the user was in compliance with each such local limit directly prior to and during the pass through or interference; or

(B) The local limit has not been developed in accordance with Tennessee Rule 1200-4-14-.05(3) for the pollutant(s) that caused the pass-through or interference, the user's discharge directly prior to and during the pass through or interference did not change substantially in nature or constituents from the user's prior discharge activity when the POTW was regularly in compliance with the POTW's NPDES permit requirements and, in the case of interference, applicable requirements for sewage sludge use or disposal. (1995 Code, § 18-224)

18-225. Enforcement response guide. The purpose of this chapter is to provide for the consistent and equitable enforcement of the provision of this chapter. Violations and recovery cost will be determined according to the provisions listed in ERP. (1995 Code, § 18-225)

18-226. Fees and billing. (1) Purpose. It is the purpose of this chapter to provide for the equitable recovery of costs from users of FPU's POTW, including costs of operation, maintenance, administration, bond service costs, capital improvements, and depreciation. The applicable fees shall be set forth

in a separate schedule of charges and fees that may be changed periodically by FPU.

(2) Types of charges and fees. The charges and fees as established in FPU's schedule of charges and fees, may include, but not be limited to:

- (a) Tapping fee;
- (b) Fees for application for discharge (service fees);
- (c) Sewer use charges;
- (d) Surcharge fees;
- (e) Industrial wastewater discharge permit fees;
- (f) Fees for industrial discharge monitoring (sampling fees and laboratory test charges);
- (g) Holding tank waste disposal permit fees; and
- (h) Other fees as the FPU board may deem necessary.

(3) Fees for applications for discharge. A fee may be charged when a user or prospective user makes application for discharge as required by §§ 18-210 and 18-211 of this chapter.

(4) Tapping fee. A tapping fee for a building sewer installation shall be paid to FPU at the time the application is filed. Fees shall cover the costs of inspecting new and/or existing plumbing within subject building establishments as well as inspection of building sewers, property sewers, and sewer service lines and connections to the public sewers. The tapping fee shall be set by the FPU board. The inspection fee for an inspection not during normal working hours, Monday through Friday, 8:00 A.M. to 3:30 P.M., may be increased at the discretion of the FPU board.

(5) Determination of costs of sewer use charges. (a) FPU shall establish monthly rates and charges for the use of the wastewater system and for the services supplied by the wastewater system. Said charges shall be based upon the cost categories of administration costs, including billing and accounting costs; operation and maintenance costs of the wastewater collection and treatment system; debt service costs; and general replacement costs.

(b) The volume of sewer use for residential customers shall be based on the water meter reading for each user. Industrial customer's sewer use shall be based on the water meter reading unless the permit requires a separate sewer meter be used.

(6) Surcharge fees. If it is determined by FPU that the discharge of other loading parameters or wastewater substances are creating excessive operation and maintenance costs within the wastewater system, whether collection or treatment, then the monetary effect of such a parameter or parameters shall be borne by the discharger of such parameters in proportion to the amount of discharge.

(7) Industrial wastewater discharge permit fees. A fee may be charged for the issuance of an industrial wastewater discharge permit in accordance with § 18-211 of this chapter.

(8) Fees for industrial discharge monitoring. Fees may be collected from industrial users having pretreatment or other discharge requirements to compensate FPU for the necessary compliance monitoring and other administrative duties of the pretreatment program.

(9) Billing. The rules and regulations for billing shall be set by FPU. (1995 Code, § 18-226)

18-227. Validity. This chapter and its provisions shall be valid for all service areas, regions, and sewage works under the jurisdiction of the City of Fayetteville, Tennessee, and/or Fayetteville Public Utilities. (1995 Code, § 18-227)

CHAPTER 3

CROSS-CONNECTIONS, AUXILIARY INTAKES, ETC.¹

SECTION

- 18-301. Definitions.
- 18-302. Standards.
- 18-303. Construction, operation, and supervision.
- 18-304. Statement required.
- 18-305. Inspections required.
- 18-306. Right of entry for inspections.
- 18-307. Correction of existing violations.
- 18-308. Use of protective devices.
- 18-309. Unpotable water to be labeled.
- 18-310. Violations and penalty.

18-301. 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 connection whereby the public water supply is connected, with any other water supply system, whether public or private, either inside or outside of any building or buildings, in such manner that a flow of water into the public water supply is possible either through the manipulation of valves or because of ineffective check or back-pressure valves, or because of any other arrangement.

(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 which does or may contain sewage or other waste or liquid which would be capable of imparting contamination to the public water supply.

(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 laws of this or any other state or country.

¹Municipal code references

Plumbing code: title 12.

Water and sewer system administration: title 18.

Wastewater treatment: title 18.

(6) "Public water supply." The waterworks system furnishing water to the City of Fayetteville and Lincoln County for general use and which supply is recognized as the public water supply by TDEC. (1995 Code, § 18-301)

18-302. Standards. FPU is to comply with *Tennessee Code Annotated*, §§ 68-221-701 to 68-221-720 as well as 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. (1995 Code, § 18-302)

18-303. Construction, operation, and supervision. It shall be unlawful for any person to cause a cross-connection, auxiliary intake, bypass, or interconnection to be made, or allow one to exist for any purpose whatsoever, unless the construction and operation of same have been approved by TDEC and the operation of such cross-connection, auxiliary intake, bypass or interconnection is at all times under the direct supervision of FPU. (1995 Code, § 18-303)

18-304. Statement required. Any person whose premises are supplied with water from the public water supply and who also has on the same premises a separate source of water supply, or stores water in an uncovered or unsanitary storage reservoir from which the water stored therein is circulated through a piping system, shall file with FPU a statement of the non-existence of unapproved or unauthorized cross-connections, auxiliary intakes, bypasses, or interconnections. Such statement shall also contain an agreement that no cross-connection, auxiliary intake, bypass, or interconnection will be permitted upon the premises. (1995 Code, § 18-304)

18-305. Inspections required. It shall be the duty of FPU 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 FPU and as approved by TDEC. (1995 Code, § 18-305)

18-306. Right of entry for inspections. FPU shall have the right to enter, at any reasonable time, any property served by a connection to the water and sewer system for the purpose of inspecting the piping system or systems therein for cross-connections, auxiliary intakes, bypasses, or interconnections. On request, the owner, lessee, or occupant of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property. The refusal of such information or refusal

of access, when requested, shall be deemed evidence of the presence of cross-connections. (1995 Code, § 18-306)

18-307. Correction of existing violations. Any person who now has cross-connections, auxiliary intakes, bypasses, or interconnections in violation of the provisions of this chapter shall be allowed a reasonable time within which to comply with the provisions of this chapter. After a thorough investigation of existing conditions and an appraisal of the time required to complete the work, the amount of time shall be designated by FPU. (1995 Code, § 18-307)

18-308. Use of protective devices. Where the nature of use of the water supplied a premises by the water department is such that it is deemed:

- (1) Impractical to provide an effective air-gap separation;
- (2) That the owner and/or occupant of the premises cannot, or is not willing, to demonstrate to the 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 the 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.

FPU shall require the use of an approved protective device on the service line serving the premises to assure that any contamination that may originate in the customer's premises is contained therein. The protective device shall be a reduced pressure zone type backflow preventer approved by TDEC as to manufacture, model, and size. The method of installation of backflow protective devices shall be approved by FPU prior to installation and shall comply with the criteria set forth by TDEC. The installation shall be at the expense of the owner or occupant of the premises.

FPU shall have the right to inspect and test the device or devices on an annual basis or whenever deemed necessary. 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 only one (1) unit is installed and the continuance of service is critical, FPU shall notify 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. FPU shall require the occupant of the premises to make all repairs indicated promptly, and the expense of such repairs shall be borne by the owner or occupant of the premises. FPU has the authority to establish a specific date and time by which repairs or replacement shall be

completed. These repairs shall be made by qualified personnel acceptable to FPU. (1995 Code, § 18-308)

18-309. Unpotable water to be labeled. The potable water supply made available to premises served by FPU shall be protected from possible contamination as specified herein. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as:

WATER UNSAFE FOR DRINKING

Minimum acceptable sign shall have black letters one-inch (1") high located on a red background. (1995 Code, § 18-309)

18-310. Violations and penalty. 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 therefore, shall be fined not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00), and each day of continued violation after conviction shall constitute a separate offense. In addition to the foregoing fines and penalties, FPU 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 such cross-connection, auxiliary intake, bypass, or interconnection has been discontinued. (1995 Code, § 18-310, modified)

TITLE 19

ELECTRICITY AND GAS

CHAPTER

1. ELECTRICITY.
2. GAS.

CHAPTER 1

ELECTRICITY¹

SECTION

19-101. To be furnished under franchise.

19-101. To be furnished under franchise. Electricity shall be furnished for the municipality and its inhabitants under such franchise as the governing body shall grant.² The rights, powers, duties, and obligations of the municipality, its inhabitants, and the grantee of the franchise shall be clearly stated in the written franchise agreement which shall be binding on all parties concerned. (1995 Code, § 19-101)

¹Municipal code reference
Electrical code: title 12.

²The agreements are of record in the office of the city clerk.

CHAPTER 2**GAS**¹**SECTION**

19-201. To be furnished under franchise.

19-201. To be furnished under franchise. Gas service shall be furnished for the municipality and its inhabitants under such franchise as the governing body shall grant. The rights, powers, duties, and obligations of the municipality, its inhabitants, and the grantee of the franchise shall be clearly stated in the written franchise agreement which shall be binding on all parties concerned.² (1995 Code, § 19-201)

¹Municipal code reference
Gas code: title 12.

²The agreements are of record in the office of the city clerk.

TITLE 20

MISCELLANEOUS

CHAPTER

1. UTILITIES GENERALLY.
2. HOUSING CORPORATION.
3. FIRE, BURGLARY AND ROBBERY ALARMS.
4. FAYETTEVILLE-LINCOLN COUNTY REGIONAL AIRPORT AUTHORITY.
5. FAIR HOUSING.
6. PUBLIC RECORDS INSPECTION AND DUPLICATION.
7. SEXUAL OFFENDER COMMUNITY NOTIFICATION SYSTEM.

CHAPTER 1

UTILITIES GENERALLY¹

SECTION

- 20-101. Prerequisites for utility services.
 20-102. Excavation near utilities.
 20-103. Duties after striking utility line.

20-101. Prerequisites for utility services. No utility shall furnish water, sewer, electric, or gas service within the corporate limits of the city to any location, building, or structure until the proper building permits, certificates of occupancy, and permits required under the zoning ordinance have been secured and exhibited by the applicant for the service. (1995 Code, § 20-101)

20-102. Excavation near utilities. No excavating shall be done within ten feet (10') of any public owned utility without the persons responsible for said excavation having notified the utility of said proposed excavation. (1995 Code, § 20-102)

20-103. Duties after striking utility line. Any person striking a utility line with any excavation equipment shall notify the owner of the utility line within one hour of striking same. (1995 Code, § 20-103)

¹Municipal code references

Electricity and gas service: title 19.

Excavations and cuts: title 16, chapter 2.

Water and sewer service: title 18.

CHAPTER 2

HOUSING CORPORATION

SECTION

- 20-201. Determined to be necessary and proper--purpose.
- 20-202. Charter and bylaws approved.
- 20-203. Incorporators and member--directors.
- 20-204. Authority and responsibility.
- 20-205. To cooperate with housing authority, etc.

20-201. Determined to be necessary and proper--purpose. It is hereby determined to be necessary and proper to authorize the creation of a non-stock, not-for-profit corporation as an instrumentality of the City of Fayetteville, Tennessee, to be known as the Fayetteville Housing Corporation of Fayetteville, Tennessee, for the purpose of constructing, financing low cost rent supplement facilities to be leased to the Fayetteville Housing Authority with the assistance of the federal government. (1995 Code, § 20-201)

20-202. Charter and bylaws approved. The proposed charter of incorporation and bylaws of said Fayetteville Housing Corporation of Fayetteville, Tennessee, are hereby approved. (1995 Code, § 20-202)

20-203. Incorporators and member--directors. Five (5) freeholders of the City of Fayetteville shall be appointed by the mayor to serve as incorporators and, original member-directors of the Fayetteville Housing Corporation of Fayetteville, Tennessee, and one (1) individual shall be appointed statutory agent for said corporation. (1995 Code, § 20-203, modified)

20-204. Authority and responsibility. The member-directors of said Fayetteville Housing Corporation of Fayetteville, Tennessee, upon the granting of a certificate of incorporation, are authorized and directed to issue, sell, and deliver revenue bonds of said corporation pursuant to *Tennessee Code Annotated*, §§ 12-2-301 to 12-2-402, and the laws of Tennessee, and to enter into contracts for the sale of bonds and construction of housing facilities and to lease the same to the Fayetteville Housing Authority. (1995 Code, § 20-204)

20-205. To cooperate with housing authority, etc.¹ The providing of low cost housing in and for the City of Fayetteville, Tennessee, is a proper

¹Municipal code reference

Compensation of members of Fayetteville Housing Authority: title 1, chapter 5.

public purpose and this city desires to cooperate with the Fayetteville Housing Authority and agencies of the federal government to fulfill such purpose. (1995 Code, § 20-205)

CHAPTER 3

FIRE, BURGLARY AND ROBBERY ALARMS

SECTION

- 20-301. Definitions.
- 20-302. Classification of alarm systems.
- 20-303. Alarm system requirements.
- 20-304. Permits required.
- 20-305. Issuance of permit and decal.
- 20-306. Permit fees.
- 20-307. Inspection of alarm system.
- 20-308. Current information required.
- 20-309. False alarm fees.
- 20-310. Charge for false emergency alarms not caused by act of nature.

20-301. Definitions. (1) "Alarm system" means a device or system of interconnected devices, including hardware and related appurtenances, mechanical or electrical, designed to give warning of activities indicative of felony, fire or criminal conduct requiring urgent attention and to which the police and fire departments are expected to respond but does not include alarms installed in conveyances.

(2) "Alarm user" means the person, firm, partnership, association, corporation, company or organization of any kind in control of any building, structure or facility or portion thereof, wherein any alarm system is maintained.

(3) "Communication center" means the police department's consolidated communication center that provides communication service to the Fayetteville Police and Fire Departments.

(4) "False alarm" means any activation of an alarm system upon or following which communication is made to the department that an alarm has been triggered, except alarms resulting from one (1) of the following causes:

- (a) Criminal activity or unauthorized entry;
- (b) Earthquake causing structural damage to the protected premises;
- (c) Tornado winds causing structural damage to the protected premises;
- (d) Flooding of the protected premises due to the overflow of natural drainage;
- (e) A lightning bolt causing physical damage to the protected premises;
- (f) Fire causing structural damage to the protected premises verified by the fire department; or

(g) Telephone line malfunction verified in writing to the department by at least a first line telephone company supervisor within seven (7) days of the occurrence.

If police or fire units, responding to an alarm and checking the protected premises according to standard department operating procedure, do not discover any evidence of fire, unauthorized entry or criminal activity, there shall be a rebuttable presumption that the alarm is false. Entries in the police or fire departments daily officer's log shall be prima facie evidence of the facts stated therein with regard to alarms and responses. (1995 Code, § 20-401)

20-302. Classification of alarm systems. Class I - An alarm system is one which incorporates a remote annunciator installed on the premises of the department or the communications center.

Class II - An alarm system incorporating an automatic dialer which directly or indirectly requires a response by Fayetteville Fire or Police Departments.

Class III - An alarm system in which the annunciator is an audible annunciator located at the protected premises, and which does not incorporate an automatic dialer. (1995 Code, § 20-402)

20-303. Alarm system requirements. (1) No alarm system shall be installed, used or maintained in violation of any of the requirements of this code.

(2) The alarm user shall be responsible for training and retraining all employees, family members and other persons who may make regular use of the protected premises and who may, in the normal course of their activities, be in a position to accidentally trigger a sensor.

(3) The alarm user shall, at all times, be responsible for the proper maintenance and repair of the system.

(4) In the event of power failure or outage, only those systems with a power system back-up will be responded to. Others will be presumed to be set by loss of power. (1995 Code, § 20-403)

20-304. Permits required. (1) It shall be unlawful for any person to use or maintain any alarm system without a current valid permit.

(2) The police and fire departments may refuse to respond to an alarm from a system without a permit.

(3) In the event police or firemen investigate an alarm, the permit holder or an agent shall cooperate by promptly coming to the premises upon request. Refusal shall constitute grounds for suspension or revocation of a permit.

(4) If an alarm user has one or more alarm systems protecting two or more structures having different addresses, a separate permit will be required for each structure.

(5) Existing installed systems will be exempt from the payment of a permit fee provided application for a permit is made within thirty (30) days of the effective date of this chapter. (1995 Code, § 20-404)

20-305. Issuance of permit and decal. (1) Upon receipt by the city administrator of the permit application and fee, the chief of police or fire chief shall undertake whatever investigation or inspection they deem necessary.

(2) If the investigation is satisfactory, a decal with the alarm user's permit number will be issued with a permit. This decal must be permanently posted on or near the front entrance to the premises so that the information on the decal is visible from outside of the structure. (1995 Code, § 20-405)

20-306. Permit fees. (1) Class I - One dollar (\$1.00)--A one time fee to be paid when the initial application for a permit hereunder is filed with the city.

(2) Class II - One dollar (\$1.00)--A one time fee to be paid when the initial application for a permit hereunder is filed with the city. Senior citizens are exempt from permit fees. "Senior citizen" is defined as a person who has attained the age of sixty-five (65) years.

(3) Class III - This class alarms are exempt from permit fees. (1995 Code, § 20-406)

20-307. Inspection of alarm system. Prior to issuing an alarm system permit, and at any time thereafter, the city may inspect any alarm system for which a permit is required. Such inspection shall be for the purpose of ascertaining that information furnished by the applicant or permittee is correct, and that the system is maintained in conformation with the provisions of this chapter. (1995 Code, § 20-407)

20-308. Current information required. Within ten (10) days following any change of circumstances which renders obsolete any of the information previously submitted, the alarm user shall file an amendment to his application, setting forth the currently accurate information. No additional fee shall be required unless the change has terminated the permit. Failure to comply with the section shall constitute grounds for revocation of the permit. (1995 Code, § 20-408)

20-309. False alarm fees. (1) Whenever an alarm is activated in the city, thereby requiring an emergency response to the location by the police or fire departments, and the police or fire department does respond, a police officer or fireman on the scene of the activated alarm system shall inspect the area protected by the system and shall determine whether the emergency response is in fact required as indicated by the alarm system or whether in some way the alarm system malfunctions and thereby activated a false alarm.

(2) It is hereby found and determined that all false alarms constitute a public nuisance. The permit holder will be billed a fifty dollars (\$50.00) service charge per false alarm occurrence after the third such false alarm in any fiscal year and seventy-five dollars (\$75.00) for the 11th false alarm and each thereafter. Each service charge incurred shall be billed and payment shall be made within thirty (30) days from the date of receipt thereof. (1995 Code, § 20-409)

20-310. Charge for false emergency alarms not caused by act of nature. (1) Definitions.

(a) "False emergency alarm." Any signal actuated by an emergency alarm which the fire or police department responds which is not the result of fire or other actual emergency and not caused by a violent act of nature.

(b) "Owner and/or operator." A person or persons who reside in or operate a residence or business in which an emergency alarm is connected.

(2) The following schedule of notice, warnings, penalties, and costs shall be assessed to the owners and/or operators of emergency alarm systems for false emergency alarms transmitted to the fire or police department.

(a) First false alarm. Verbal notification by a fire or police department officer.

(b) Second false alarm. Notice letter informing the owner or operator of the alarm system of the provisions of this section.

(c) Third false alarm. Warning letter and notice to insure that the alarm system is in proper working order. Once the third false emergency alarm has been received the police chief or fire chief shall send, by certified mail, a notice to the owner and/or operator that further false emergency alarms will result in the imposition of a penalty and/or costs of providing such service.

(d) Fourth false alarm. A fine of twenty-five dollars (\$25.00) shall be imposed.

(e) Fifth and more. A fine of twenty-five dollars (\$25.00) for each false alarm and the actual costs of such response by the fire and/or police department including the costs of equipment, fuel, personnel, administration, and other such factors as determined by the department heads.

(3) Each party who is determined to be liable for a fine and/or costs pursuant to this section shall be notified in writing of the same and shall have thirty (30) days from date of notice to pay the fine and/or costs or otherwise provide notice that it is contesting the imposition of the fine and/or costs. A party who fails to pay the fine and/or costs within thirty (30) days shall be cited to the municipal court of the City of Fayetteville for determination of the party's liability for the fine and/or costs. (1995 Code, § 20-410)

CHAPTER 4

**FAYETTEVILLE-LINCOLN COUNTY REGIONAL AIRPORT
AUTHORITY**¹**SECTION**

20-401. Creation; commissioners; authority.

20-401. Creation; commissioners; authority. (1) There is hereby created with Lincoln County a public body, corporate and politic, to be known as the Fayetteville-Lincoln County Regional Airport Authority which authority shall be authorized to exercise its functions upon the issuance by the Tennessee Secretary of State of a certificate of incorporation.

(2) All terms of the commissioners shall be for five (5) years.

Said Fayetteville-Lincoln County Regional Airport Authority shall have the authority set forth in chapter 3, title 42 of the *Tennessee Code Annotated*. (1995 Code, § 20-501, modified)

¹Charter reference
Airport committee: § 32a

CHAPTER 5

FAIR HOUSING

SECTION

20-501. Policy.

20-502. Definitions.

20-503. Unlawful practices.

20-504. Discrimination in the sale or rental of housing.

20-505. Discrimination in the financing of housing.

20-506. Discrimination in the provision of brokerage services.

20-507. Exemptions.

20-501. Policy. It is the policy of the City of Fayetteville to provide, within constitutional limitations, for fair housing throughout the community. (1995 Code, § 20-601)

20-502. Definitions. (1) "Discriminatory housing practice" means an act that is unlawful under §§ 20-604, 20-605, or 20-606.

(2) "Dwelling" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as a residence by one (1) or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

(3) "Family" includes a single individual.

(4) "Person" includes one (1) or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers and judiciaries.

(5) "To rent" includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises owned by the occupant. (1995 Code, § 20-602)

20-503. Unlawful practices. Subject to the provisions of subsection (2) and § 20-607, the prohibitions against discrimination in the sale or rental of housing set forth in § 20-604 shall apply to:

(1) All dwellings except as exempted by subsection (2).

(2) Nothing in this chapter shall apply to any single-family house sold or rented by an owner. (1995 Code, § 20-603)

20-504. Discrimination in the sale or rental of housing. (1) To refuse to sell or rent after the making of a bona fide offer, 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, sex, national origin, familial status or disability.

(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 therewith, because of race, color, religion, sex, national origin, familial status or disability.

(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, sex, national origin, familial status or disability.

(4) To represent to any person because of race, color, religion, sex, national origin, familial status or disability 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, sex, national origin, familial status or disability.

(6) To refuse to permit, at the expense of the person with a disability, reasonable modifications of existing premises occupied or to be occupied by that person if such modifications are necessary to afford that person full enjoyment of the premises.

(7) To refuse to make reasonable accommodations in rules, policies, practices, or service, when such accommodations are necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling. (1995 Code, § 20-604)

20-505. Discrimination in the financing of housing. It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefore for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance because of the race, color, religion, sex, national origin, familial status or disability of such person or of any person associated with him in connection with such loan or other financial assistance or the purposes of such loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given: Provided, that nothing contained in this section shall impair the scope or effectiveness of the exception contained in § 20-603(2). (1995 Code, § 20-605)

20-506. Discrimination in the provision of brokerage services. 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, sex, national origin, familial status or disability. (1995 Code, § 20-606)

20-507. Exemption. Nothing in this chapter shall prohibit a religious organization, association, or society or any non-profit institution of organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, religion, sex, national origin, familial status or disability. Nor shall anything in this chapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members. (1995 Code, § 20-607)

CHAPTER 6

PUBLIC RECORDS INSPECTION AND DUPLICATION

SECTION

20-601. Access, viewing and copying public records.

20-601. Access, viewing and copying public records. (1) Each individual requesting to inspect a public record as defined by *Tennessee Code Annotated*, § 10-7-503, shall be required to show a photo identification verifying Tennessee citizenship. Requests for viewing and/or copying public records may be made in writing on a standard form maintained at the city administrator's office.

(2) Confidential information, as defined by state law, shall be kept confidential. When possible, documents containing confidential information shall be made available for inspection or copying after all confidential information is redacted.

(3) Each department within the city shall maintain custody of the records of that department. The department with custody of the records requested shall determine, based upon its current workload, a reasonable response time, not to exceed seven (7) days, and will advise the city administrator, or a member of his or her staff, who will contact the individual making the request to advise when the documents will be available for inspection and/or copying. For records in the custody of the city administrator, the city administrator, or a member of his or her staff, shall notify the individual making the request as to the reasonable response time, not to exceed seven (7) days.

(4) When a request is made for a large volume of records and the records custodian determines that production of the records should be segmented, the requestor shall be notified that the production of the records will be in segments. A records production schedule will be provided as expeditiously as possible.

(5) Copies of documents or items provided will be charged as follows:

Standard 8 1/2 x 11 or 8 1/2 x 14 black and white copy (including each side of a duplex copy)	\$0.15
Standard 8 1/2 x 11 or 8 1/2 x 14 color copy (including each side of a duplex copy)	\$0.50
Compact disc or DVD	

All fees are to be paid in full prior to the delivery of the copied records to the individual making the request. Calculation of those charges will be in accordance with the policy of the Office of Open Records Counsel of the Tennessee Comptroller's Office.

(6) The Fayetteville Police Department shall be permitted to charge five dollars (\$5.00) for copies of Tennessee Uniform Traffic Crash Reports based on a determination by the police department that expenses consistent with that amount are actually incurred in the production of these records and making copies of the same available to individuals requesting them.

(7) Delivery of copies of records to a requestor is anticipated to be by hand delivery when the requestor returns to the custodian's office to retrieve the requested records. In the event it is necessary to deliver the copies through means of the United States Postal Service or other mail delivery service, the individual making the request shall pay the deliver cost incurred.

(8) The requesting individual shall be charged for the staff time reasonably necessary to produce copies of the requested records, including the time spent locating, retrieving, reviewing, redacting reproducing the record, except as set forth herein. The city shall provide up to one hour of labor of a city employee for the locating, retrieving, reviewing, redacting and reproducing of records at no charge to the requestor before labor costs associated with the request are charged to the individual making the request. After the first hour, the additional labor charges associated with a request for copies must be paid by the individual making the request to obtain the copies. The charge shall be calculated as set forth by the Office of Open Records Counsel for the Tennessee Comptroller's Office.

(9) No charge shall accrue for a request to review records other than the charge for the staff time reasonably necessary to produce copies of the requested records, including the time spent locating, retrieving, reviewing, redacting and overseeing the inspection of the record.

(10) The city shall not relinquish custody of the original records in the course of fulfilling a request. Inspection of any records shall be conducted in the presence of a city staff member.

(11) No cameras or personal duplicating equipment of any kind shall be allowed to be used by an individual making a request for inspection and/or copying of a public record. A city staff member will make a copy of any record requested, provided that the city has the means of copying the document requested, subject to the fees set forth herein.

(12) In the event the city does not have the means to copy or reproduce a record requested, a reasonable effort will be made by city staff to locate an outside vendor having the means to copy or reproduce the record. In such event, the city shall ascertain the estimated cost of having the record copies or reproduced by an outside vendor and shall advise the person making the request

of the anticipated cost. If the person making the request pays to the city the anticipated cost of having the record reproduced, the city shall proceed with having the outside vendor reproduce the record and shall make the copy available to the individual making the request once the copy is acquired from the outside vendor. Additionally, the city shall be entitled to collect labor costs and transportation expenses for transporting the record to be reproduced by an outside vendor and retrieving the copy once completed.

(13) Appointments shall be scheduled for inspection of public documents to ensure that staffing is adequate to accommodate the inspection. The failure of an individual making a request to appear for an inspection within thirty (30) minutes of the time scheduled may require the appointment to be rescheduled on another date. When copies of documents are requested in the course of an inspection of records, the requesting individual will be notified when the copies are prepared and available. (Ord. #2014-04, March 2014, modified)

CHAPTER 7

SEXUAL OFFENDER COMMUNITY NOTIFICATION SYSTEM**SECTION**

20-701. Sexual offender community notification system.

20-701. Sexual offender community notification system. Pursuant to *Tennessee Code Annotated*, § 40-39-217, the City of Fayetteville hereby establishes a sexual offender community notification system to provide notification when a person required to register pursuant to the Tennessee Sexual Offender and Violent Sexual Offender Registration, Verification and Tracking Act of 2004 intends to reside, or, upon registration, declares to reside with the City of Fayetteville. Such notification shall be made as follows:

(1) The Fayetteville Police Department shall establish and maintain a location in a prominent place at the Fayetteville Police Department for the posting of notices pertaining to those persons on the sexual offender registry who reside in the City of Fayetteville;

(2) The Fayetteville Police Department shall publicize such notices by posting them on any internet website or social media outlet routinely used by the Fayetteville Police Department for disseminating information to members of the public; and

(3) The Fayetteville Police Department may, at its discretion, use any other method reasonably expected to provide notification to members of the public. (Ord. #2014-09, July 2014)

ORDINANCE NO. 2017-16

AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE CITY OF FAYETTEVILLE, TENNESSEE.

WHEREAS some of the ordinances of the City of Fayetteville are obsolete, and

WHEREAS some of the other ordinances of the city are inconsistent with each other or are otherwise inadequate, and

WHEREAS the Board of Mayor and Aldermen of the City of Fayetteville, 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 "Fayetteville Municipal Code," now, therefore:

BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF FAYETTEVILLE, 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 "Fayetteville 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

Each day any violation of the municipal code continues shall constitute a separate civil offense.

¹State law reference

For authority to allow deferred payment of fines, or payment by installments, see *Tennessee Code Annotated*, § 40-24-101 *et seq.*

Section 6. Severability clause. Each section, subsection, paragraph, sentence, and clause of the municipal code, including the codes and ordinances adopted by reference, is hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause in the municipal code shall not affect the validity of any other portion of said code, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

Section 7. Reproduction and amendment of code. The municipal code shall be reproduced in loose-leaf form. The board of mayor and aldermen, by motion or resolution, shall fix, and change from time to time as considered necessary, the prices to be charged for copies of the municipal code and revisions thereto. After adoption of the municipal code, each ordinance affecting the code shall be adopted as amending, adding, or deleting, by numbers, specific chapters or sections of said code. Periodically thereafter all affected pages of the municipal code shall be revised to reflect such amended, added, or deleted material and shall be distributed to 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.

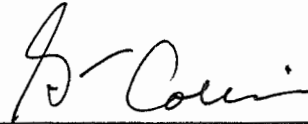
Section 10. Date of effect. This ordinance shall take effect from and after its final passage, the public welfare requiring it, and the municipal code, including all the codes and ordinances therein adopted by reference, shall be effective on and after that date.

Passed 1st reading, December 12, 2017.

Passed 2nd reading, February 13, 2018.



Mayor



Recorder