

**THE  
GREENBRIER  
MUNICIPAL  
CODE**

Prepared by the



**Municipal Technical Advisory Service**

*In cooperation with the Tennessee Municipal League*

September 2024

**CITY OF GREENBRIER, TENNESSEE**

**MAYOR**

Lanny Adcock

**ALDERMEN**

Alisha Algood  
Chris Davis  
Bill Deaver  
Jeff DeLong  
Billy Ray Dorris  
Donald Toohey

**RECORDER**

Stephanie Peterson Toland

**CITY ATTORNEY**

Reba Brown

## PREFACE<sup>1</sup>

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

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

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

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

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

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

---

<sup>1</sup>Whenever in this municipal code of ordinances masculine pronouns are used, the feminine is included.

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 the codes team: Kelley Myers and Nancy Gibson is gratefully acknowledged.

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

SECTION 10. No ordinance shall become a law without having been passed on two (2) readings by a majority vote of the board, both of which shall not be at the same meeting, and unless the same is passed over by the veto of the mayor. All ordinances shall begin by an enacting clause, as follows: "Be it enacted by the board of mayor and aldermen of Greenbrier, Tennessee" and shall at the end of the ordinance contain this provision, that "This ordinance shall take effect from and after its passage, the welfare of the city requiring it". Otherwise the same shall not take effect until twenty (20) days after its passage

# TABLE OF CONTENTS

PAGE

## INTRODUCTION

OFFICIALS OF THE TOWN AT TIME OF CODIFICATION .....	ii
PREFACE .....	iii
ORDINANCE ADOPTION PROCEDURES PRESCRIBED BY THE TOWN CHARTER .....	v

## CHARTER

CHARTER TABLE OF CONTENTS .....	C-1
TEXT OF CHARTER .....	C-2

## CODE OF ORDINANCES

CODE ADOPTING ORDINANCE .....	ORD-1
TITLE 1. GENERAL ADMINISTRATION .....	1-1
<b>CHAPTER</b>	
1. GOVERNING BODY .....	1-1
2. CODE OF ETHICS .....	1-3
TITLE 2. BOARDS AND COMMISSIONS, ETC. ....	2-1
<b>CHAPTER</b>	
1. PARKS AND RECREATION ADVISORY BOARD ...	2-1
2. RESIDENCY REQUIREMENTS AND TERMS OF APPOINTMENTS .....	2-11
3. RESIGNATION BY EXCESSIVE ABSENCES .....	2-12
TITLE 3. MUNICIPAL COURT .....	3-1
<b>CHAPTER</b>	
1. CITY JUDGE .....	3-1
2. COURT ADMINISTRATION .....	3-2
3. BONDS AND APPEALS .....	3-4

	<u>PAGE</u>
<b>TITLE 4. MUNICIPAL PERSONNEL . . . . .</b>	4-1
<b>CHAPTER</b>	
1. PERSONNEL SYSTEM . . . . .	4-1
2. INFECTIOUS DISEASE CONTROL POLICY . . . . .	4-3
3. TRAVEL REIMBURSEMENT REGULATIONS . . . . .	4-12
4. OCCUPATIONAL SAFETY AND HEALTH PROGRAM . . . . .	4-15
<b>TITLE 5. MUNICIPAL FINANCE AND TAXATION . . . . .</b>	5-1
<b>CHAPTER</b>	
1. MISCELLANEOUS . . . . .	5-1
2. REAL PROPERTY TAXES . . . . .	5-2
3. PRIVILEGE TAXES . . . . .	5-4
4. WHOLESALE BEER TAX . . . . .	5-5
<b>TITLE 6. LAW ENFORCEMENT . . . . .</b>	6-1
<b>CHAPTER</b>	
1. POLICE AND ARREST . . . . .	6-1
<b>TITLE 7. FIRE PROTECTION AND FIREWORKS . . . . .</b>	7-1
<b>CHAPTER</b>	
1. FIRE DISTRICT . . . . .	7-1
2. FIRE CODE . . . . .	7-2
3. FIRE DEPARTMENT . . . . .	7-4
4. FIRE SERVICE OUTSIDE TOWN LIMITS . . . . .	7-8
5. FIREWORKS . . . . .	7-9
<b>TITLE 8. ALCOHOLIC BEVERAGES . . . . .</b>	8-1
<b>CHAPTER</b>	
1. INTOXICATING LIQUORS . . . . .	8-1
2. BEER . . . . .	8-12
3. WINE IN RETAIL FOOD STORES . . . . .	8-20
<b>TITLE 9. BUSINESS, PEDDLERS, SOLICITORS, ETC. . . . .</b>	9-1
<b>CHAPTER</b>	
1. PEDDLERS, SOLICITORS, ETC. . . . .	9-1
2. YARD SALES . . . . .	9-6
3. CABLE TELEVISION . . . . .	9-9

	<u>PAGE</u>
4. ADULT ORIENTED BUSINESS ESTABLISHMENTS .....	9-10
<b>TITLE 10. ANIMAL CONTROL .....</b>	<b>10-1</b>
<b>CHAPTER</b>	
1. IN GENERAL .....	10-1
2. DOGS .....	10-5
3. PIT BULLS .....	10-9
<b>TITLE 11. MUNICIPAL OFFENSES .....</b>	<b>11-1</b>
<b>CHAPTER</b>	
1. ALCOHOL .....	11-1
2. FORTUNE TELLING, ETC. ....	11-2
3. OFFENSES AGAINST THE PEACE AND QUIET .....	11-3
4. INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL .....	11-6
5. TRESPASSING AND INTERFERENCE WITH TRAFFIC .....	11-7
<b>TITLE 12. BUILDING, UTILITY, ETC. CODES .....</b>	<b>12-1</b>
<b>CHAPTER</b>	
1. VARIOUS CODES ADOPTED .....	12-1
<b>TITLE 13. PROPERTY MAINTENANCE REGULATIONS .....</b>	<b>13-1</b>
<b>CHAPTER</b>	
1. MISCELLANEOUS .....	13-1
2. JUNKYARDS .....	13-6
3. TREE PROTECTION AND PLANTING PROVISIONS .....	13-7
4. JUNKED VEHICLES ON PUBLIC AND PRIVATE PROPERTY .....	13-17
5. RESIDENTIAL RENTAL REGULATIONS .....	13-21
6. SLUM CLEARANCE .....	13-25
<b>TITLE 14. ZONING AND LAND USE CONTROL .....</b>	<b>14-1</b>
<b>CHAPTER</b>	
1. MUNICIPAL PLANNING COMMISSION .....	14-1
2. ZONING ORDINANCE .....	14-3



	<u>PAGE</u>
3. FLOOD DAMAGE PREVENTION ORDINANCE . . .	14-4
4. SUBDIVISION REGULATIONS . . . . .	14-29
<b>TITLE 15. MOTOR VEHICLES, TRAFFIC AND PARKING . . . . .</b>	<b>15-1</b>
<b>CHAPTER</b>	
1. MISCELLANEOUS . . . . .	15-1
2. EMERGENCY VEHICLES . . . . .	15-12
3. SPEED LIMITS . . . . .	15-14
4. TURNING MOVEMENTS. . . . .	15-15
5. STOPPING AND YIELDING . . . . .	15-16
6. PARKING. . . . .	15-19
7. ENFORCEMENT. . . . .	15-21
<b>TITLE 16. STREETS AND SIDEWALKS, ETC. . . . .</b>	<b>16-1</b>
<b>CHAPTER</b>	
1. MISCELLANEOUS . . . . .	16-1
2. EXCAVATIONS AND CUTS. . . . .	16-4
<b>TITLE 17. REFUSE AND TRASH DISPOSAL . . . . .</b>	<b>17-1</b>
<b>CHAPTER</b>	
1. REFUSE . . . . .	17-1
<b>TITLE 18. WATER AND SEWERS . . . . .</b>	<b>18-1</b>
<b>CHAPTER</b>	
1. GREENBRIER WATER AND SEWER DEPARTMENT . . . . .	18-1
2. WATER. . . . .	18-3
3. GENERAL WASTEWATER REGULATIONS . . . . .	18-13
4. INDUSTRIAL/COMMERCIAL WASTEWATER REGULATIONS. . . . .	18-37
5. CROSS CONNECTIONS, AUXILIARY INTAKES, ETC. . . . .	18-67
6. SEWER CONSTRUCTION ORDINANCE. . . . .	18-83
7. STORMWATER ORDINANCE . . . . .	18-87
8. ANIMAL AND VEGETABLE FATS, OILS AND GREASE . . . . .	18-131

	<u>PAGE</u>
<b>TITLE 19. ELECTRICITY AND GAS</b> .....	19-1
<b>CHAPTER</b>	
1. <b>GAS</b> .....	19-1
<b>TITLE 20. MISCELLANEOUS</b> .....	20-1
<b>CHAPTER</b>	
1. <b>TELEPHONE SERVICE</b> .....	20-1
<b>CERTIFICATE OF AUTHENTICITY</b> .....	CERT-1
<b>APPENDIX</b>	
A. <b>ATTACHMENT "A" TO TREE PLANTING AND             PROTECTION</b> .....	A-1

**TITLE 1**

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

**CHAPTER**

1. GOVERNING BODY.
2. CODE OF ETHICS.

**CHAPTER 1**

**GOVERNING BODY<sup>2</sup>**

**SECTION**

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

**1-101. Time and place of regular meetings.** The governing body shall hold regular monthly meetings at 6:00 P.M. on the first Monday of each month at Greenbrier City Hall. (Ord. #22-16, Nov. 2022)

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

- (1) Call to order by the mayor.
- (2) Roll call by the recorder.
- (3) Reading of minutes of the previous meeting by the recorder and approval or correction.

---

<sup>1</sup>Charter references

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

Municipal code references

Building, plumbing and gas inspectors: title 12.

Fire department: title 7.

Utilities: titles 18 and 19.

Wastewater treatment: title 18.

Zoning: title 14.

<sup>2</sup>Charter references

Oath of office: § 6.

Quorum: § 7.

Salaries: § 18.

Term of office: § 6.

Vacancies: § 13.

- (4) Grievances from citizens.
- (5) Communications from the mayor.
- (6) Reports from committees, members of the governing body, and other officers.
- (7) Old business.
- (8) New business.
- (9) Adjournment. (1997 Code, § 1-102)

**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 governing body 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. (1997 Code, § 1-103)

## CHAPTER 2

### CODE OF ETHICS

#### SECTION

- 1-201. Applicability.
- 1-202. Definition of "personal interest."
- 1-203. Disclosure of personal interest by official with vote.
- 1-204. Disclosure of personal interest in nonvoting matters.
- 1-205. Acceptance of gratuities, etc.
- 1-206. Use of information.
- 1-207. Use of municipal time, facilities, etc.
- 1-208. Use of position or authority.
- 1-209. Outside employment.
- 1-210. Ethics complaints.
- 1-211. Violations and penalty.

**1-201. Applicability.** This 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. (1997 Code, § 1-201)

**1-202. Definition of "personal interest."** (1) For purposes of §§ 1-303 and 1-304, "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;

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

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

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

(3) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter. (1997 Code, § 1-202)

**1-203. Disclosure of personal interest by official with vote.**<sup>1</sup> An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects, or that would lead a reasonable person to infer that it affects, the official's vote on the measure. In addition, the official may recuse himself from voting on the measure. (1997 Code, § 1-203)

**1-204. Disclosure of personal interest in nonvoting matters.** An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects, or that would lead a reasonable person to infer that it affects, the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the interest on a form provided by, and filed with, the city recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself<sup>2</sup> from the exercise of discretion in the matter. (1997 Code, § 1-204)

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

(1) For the performance of an act, or 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. (1997 Code, § 1-205)

**1-206. Use of information.** (1) An official or employee may not disclose any information obtained in his official capacity or position of employment that is made confidential under state or federal law except as authorized by law.

(2) An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity. (1997 Code, § 1-206)

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

---

<sup>1</sup>A copy of the City of Greenbrier, Tennessee's Disclosure of Personal Interest, Exhibit A, is available to view at the office of the recorder.

<sup>2</sup>Masculine pronouns include the feminine. Only masculine pronouns have been used for convenience and readability.

(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. (1997 Code, § 1-207)

**1-208. 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. (1997 Code, § 1-208)

**1-209. Outside employment.** An official or employee may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the municipal position or conflicts with any provision of the municipality's charter, or any ordinance or policy. (1997 Code, § 1-209)

**1-210. 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 (2), the city attorney shall investigate any credible complaint against an appointed official or employee charging any violation of this chapter, or may undertake an investigation on his own initiative when he acquires information indicating a possible violation and make recommendations for action to end or seek retribution for any activity that, in the attorney's judgment, constitutes a violation of this code of ethics.

(b) The city attorney may request that the governing body 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. (1997 Code, § 1-210)

**1-211. 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. (1997 Code, § 1-211)



## TITLE 2

### BOARDS AND COMMISSIONS, ETC.

#### CHAPTER

1. PARKS AND RECREATION ADVISORY BOARD.
2. RESIDENCY REQUIREMENTS AND TERMS OF APPOINTMENTS.
3. RESIGNATION BY EXCESSIVE ABSENCES.

#### CHAPTER 1

### PARKS AND RECREATION ADVISORY BOARD

#### SECTION

- 2-101. Board created, membership, terms, appointments and vacancies.
- 2-102. Powers and duties of the board.
- 2-103. Powers and duties of the director.
- 2-104. Rules and regulations.
- 2-105. Background checks.
- 2-106. Enforcement.

#### **2-101. Board created, membership, terms, appointments and vacancies.**

There is hereby created the City of Greenbrier Parks and Recreation Advisory Board, hereinafter called "the board." The board shall be composed of seven (7) members, one (1) alderman elected by the board of aldermen, and six (6) citizens who are residents of the City of Greenbrier, or within the boundaries of the Greenbrier High School district and appointed by the mayor. The term of office for the six (6) citizens shall be staggered three (3) years or until their successors are appointed. The mayor shall fill vacancies in such board for the unexpired term. Board members should be representative of cross-sections of the community to represent variable interests including arts, historic sites, athletics, general recreation programming, and senior citizens activities. (Ord. #20-19, Jan. 2021, modified)

**2-102. Powers and duties of the board.** (1) The board is to act only as an advisory body in the development of a parks, recreation and tourism system within the City of Greenbrier. The board shall be under the direction of the board of mayor and aldermen.

The board shall be an advisory body responsible for providing input in meeting the cultural, artistic, athletic/fitness, beautification, historic, tourism and natural resource needs of the City of Greenbrier.

The board is to advise the parks, recreation and tourism department in connection with the artistic and cultural development of Greenbrier. The board serves in an advisory capacity only, and their recommendations may be taken by the director of parks and recreation, or modified in any manner, since the director of parks and recreation is the final departmental authority.

This board shall also assist in determining the needs for the community so that an

ongoing program may be maintained in accordance to any long-range plans.

(2) Duties of officers. (a) Chairman. The chairman shall preside at all meetings of the board and shall call special meetings of the board. The chairman shall vote on all matters coming before the board.

(b) Vice-chairman. The vice-chairman shall preside over any meeting in which the chairman is not present.

(c) Secretary. The director of parks and recreation, or their designee, shall act as secretary of the board. The secretary is responsible for preparing the agenda and minutes of all meetings.

(3) Appointment of chairman. The chairman and vice chairman shall be appointed annually by a majority vote of the board at its first quarter meeting.

(4) Board meetings. (a) The board will meet regularly on a bi-monthly basis. The board shall set the day and time.

(b) All regular and special called meetings of the board shall be open to the public. The director and appropriate staff will be present at all meetings of the board.

(c) Minutes of the board meetings will be available for review during regular business hours at Greenbrier City Hall.

(5) Minutes. All proceedings of the board shall be in typed form and filed in a permanent book of record and open to the public for inspection at all reasonable and proper times.

(6) Quorum. A majority of the duly appointed board members shall constitute a quorum.

(7) Voting. The ayes and nays will be taken upon the passage of all board matters. All votes will be entered upon the minutes of the meeting. The act of a majority of members, at which a quorum is present, will be the official act of the board.

The board may create committees to study certain subject matter when it deems it in the best interest of the board. Composition of such committees may include individuals who are not members of the parks and recreation advisory board. (Ord. #20-19, Jan. 2021)

**2-103. Powers and duties of the director.** The director of parks and recreation shall be the chief administrative officer in charge of the management of public parks, playgrounds, community centers and other comprehensive recreational facilities and programs of the City of Greenbrier. The director shall administer the policies set forth by the City of Greenbrier Board of Mayor and Aldermen. (Ord. #20-19, Jan. 2021)

**2-104. Rules and regulations.** (1) Definitions. For the purpose of this section, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

(a) "City" means the City of Greenbrier, Tennessee.

(b) "Director" means the Director of Parks and Recreation of the City of Greenbrier, the person immediately in charge of all park areas and its activities.

(c) "Park" means all city owned or operated parks, municipal centers, future swimming pools and other recreational areas.

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

(e) "Vehicle" means any wheeled conveyance, whether motor powered, animal drawn, or self-propelled. The term shall include any trailer in tow of any size, kind or description. Exception is made for baby carriages and vehicles in the service of the city park.

(2) Persons invited to use city parks; park hours. (a) All persons are invited to use city parks and their facilities who will comply with the terms of this section and such rules and regulations promulgated hereunder governing the use of city parks.

(b) All city parks and future parks will be open to use by the public and will have hours posted at their entrance.

(c) Each recreation center complex shall have posted the open hours for its indoor and outdoor recreational facilities. No person or persons, and/or vehicles, will be allowed to be in the parks and recreation center complex after closed hours. Vehicles parked in the parks and recreation areas after the complex is closed shall be towed away at the owner's expense.

(3) Unlawful activities. It shall be unlawful relative to the following:

(a) Buildings and other property; disfiguration and removal. Willfully mark, deface, disfigure, injure, tamper with or displace, or remove any buildings, bridges, tables, benches, fireplaces, railways, paving or paving materials, waterlines or other public utilities, or parts or appurtenances thereof, signs, notices or place cards, whether temporary or permanent, monuments, stakes, posts, or other structures or equipment, facilities or park property, or appurtenances whatsoever, either real or personal.

(b) Restrooms and washrooms. Failure to cooperate in maintaining restrooms and washrooms in a neat and sanitary condition.

(c) Removal of natural resources. Dig or remove any soil, rock, stone, trees, shrubs or plants, down-timber or other wood or materials, or make any excavation by tool, equipment, blasting or other means or agency.

(d) Erection of structures. Construct or erect any building or structure of whatever kind, whether permanent or temporary in character, or string any public service utility into, upon or across such lands, except upon special written permit issued hereunder.

(e) Trees, shrubbery and lawns; injury and removal. Damage, cut, carve, transplant or remove any tree or plant, or injure the bark, or pick the flowers or seeds, of any tree or plant. Nor shall any person attach any rope, wire or other contrivance to any tree or plant. A person shall not dig in or otherwise disturb grass areas, or in any other way injure or impair the natural beauty or usefulness of any area.

(f) Climbing trees, etc. Climb any tree or walk, stand or sit upon monuments, vases, fountains, railing, fences, or gun carriages or upon other

property not designated or customarily used for such purposes.

(g) Equine activities. Except with written permission of the director during special events, it is unlawful for any individual to enter the park on horseback, horse drawn carriages, wagons, etc.

(h) Wild animals, birds, etc.; hunting, molesting, etc. Hunt, molest, harm, frighten, kill, trap, chase, tease, shoot, or throw missiles at any animal, reptile or bird; nor shall they remove or have in their possession the young of any wild animal, or the eggs or nest, or young of any reptile or bird; nor shall they collect, remove, have in their possession, give away, sell or offer to sell, or buy or offer to buy, or accept as a gift any specimen, alive or dead, of any of the group of tree snails. Exception to the foregoing is made in that snakes known to be deadly or poisonous, such as rattlesnakes, moccasins, copperheads, or other deadly reptile, may be killed on sight.

(i) Feeding. Give or offer, or attempt to give to any animal or bird any tobacco, alcohol or other known noxious substances.

(j) Sanitation, pollution of waters. Throw, discharge or otherwise place, or cause to be placed, in the waters of any fountain, pond or lake, stream, bay or other body of water in, or adjacent to, any park or any tributary, stream, storm sewer, or drain flowing into such waters any substance, matter or thing, liquid or solid, which or may result in the pollution of said waters.

(k) Refuse and trash. Have brought in or shall dump, deposit or leave any bottles, broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage, or refuse or other trash. No such refuse or trash shall be placed in any waters contiguous to any park, or left anywhere on the grounds thereof, but shall be placed in the proper receptacles where these are provided; where receptacles are not so provided, all such rubbish or waste shall be carried away from the park by the persons responsible for its presence, and properly disposed of elsewhere.

(l) Traffic, state motor vehicle laws and city traffic ordinances apply. Failure to comply with all applicable provisions of the state motor vehicle traffic laws and the traffic ordinances of the City of Greenbrier in regard to equipment and operation of vehicles together with such regulations as contained in this chapter and other ordinances.

(i) Obey personnel, enforcement of traffic regulations. Fail to obey all traffic officers and park employees, such persons being hereby authorized and instructed to direct traffic whenever needed and wherever needed in the parks and on the highways, streets or roads immediately adjacent thereto in accordance with the provisions of these regulations and such supplementary regulations as may be issued subsequently by the director.

(ii) Obey traffic signs. Failure to observe carefully all traffic signs indicating speed, direction, caution, stopping or parking and all others posted for proper control and to safeguard life and property.

(iii) Speed of vehicles. Ride or drive a vehicle at a rate of speed exceeding fifteen (15) miles an hour, except upon such roads as the

director may designate, by posted signs, for speedier travel.

(iv) Operation confined to specific areas. Drive any vehicle on any area except the paved or graveled park roads or parking areas as may, on occasion, be specifically designated as temporary parking areas by a park attendant.

(m) Parking, designated areas. Vehicles shall park in designated areas.

(i) Full parking. Full-park on the road or driveway at any time.

(ii) Immovable vehicles. Leave any vehicle anywhere in the park with one (1) or more wheels chained, or motor set in gear and doors locked, or in any manner fixed or arranged so that such vehicle cannot be readily moved by hand.

(iii) Night parking. Leave a vehicle standing or parked at night without lights clearly visible for at least one hundred feet (100') from both front and rear on any driveway or road area except legally established parking areas.

(iv) Double parking. Double-park any vehicle on any road or parkway unless directed by a park official.

(n) Muffler required. Fail to use muffler adequate to deaden the sound of the engine in a motor vehicle.

(o) Abandonment. Leave a vehicle within the boundaries of the park after park hours unless such vehicle be disabled and is reported by the driver to the director or police department. Any vehicle remaining in said park after closing hours will be towed away and stored at the expense of the owner.

(p) Loitering. No person shall be permitted to continuously sit longer than sixty (60) minutes within a vehicle, parked within any park.

(q) Bicycles and motorcycles, confined to roads. Ride a bicycle or motorcycle on other than a paved vehicular road or designated areas by the director. No bicycle or motorcycle shall be permitted on trails, or in spectator, bleacher, practice or game areas.

(i) Operation generally. Ride a bicycle or motorcycle other than on the right-hand side of the road paving as close as conditions permit, and bicycles and motorcycles shall be kept in single file when two (2) or more are operating as a group. Bicyclists and motorcyclists shall, at all times, operate their machines with reasonable regard to the safety of others, signal all turns, pass to the right of any vehicle that are overtaking and pass to the right of any vehicle that may be meeting. No motorcycles shall be operated in the park unless equipped with a properly functioning muffler adequate to suppress motor noise to a comfortable level of sound.

(ii) Rider prohibited. Ride any other person on a bicycle.

(iii) Designated racks. Leave a bicycle in a place other than a bicycle rack when such is provided and there is a space available.

(iv) Immobile. Leave a bicycle or motorcycle lying on the ground or pavement, or set against trees, or in any place or position where other persons may trip over or be injured by them.

(r) Recreational activities; swimming, etc. Swim, bathe, or wade in any water or waterways in, or adjacent to, such park, except at swimming pool.

(s) Hunting and firearms; hunt, trap or pursue wildlife at any time. No person shall use, carry or possess firearms of any description or air rifles, spring guns, bow-and-arrows, slings or any other form of weapon potentially dangerous to wildlife and human safety, or any kind of trapping device. Nor shall any person shoot into park areas from beyond park boundaries.

(t) Picnic areas, generally; picnic or lunch in a place other than those designated for that purpose. Attendants shall have the authority to assign activities in such areas when necessary to prevent congestion and to secure the maximum use for the comfort and convenience of all. Visitors shall comply with any directions given to achieve this end.

(i) Availability. Violation of the regulation that use of the individual fireplaces, together with tables and benches, follows generally the rule of "first come, first serve" unless otherwise reserved.

(ii) Use of any portion of the picnic areas, or any of the buildings or structures therein, for the purpose of holding picnics to the exclusion of other persons, nor shall any person use such area and facilities for an unreasonable amount of time if the facilities are crowded.

(iii) Duty of picnicker. Leave a picnic area before the fire is completely extinguished and before all trash in the nature of boxes, papers, cans, bottles, garbage and other refuse is placed in the disposable receptacles where provided. If no such receptacles are available, then refuse and trash shall be carried away from the park area by the picnicker to be properly disposed of elsewhere.

(u) Camping. Except where specifically set out below, to set up tents, shacks or any other temporary shelter for the purpose of overnight camping, nor shall any person leave in a park after closing for such purpose, such as house trailer, camp trailer, camp wagon or the like. Overnight special event is permissible by special permit of the director.

(v) Games. Take part in or abet playing of any games involving thrown or otherwise propelled objects such as balls, stones, arrows, javelins or model airplanes except in areas set apart for such forms of recreation. The playing of rough or comparatively dangerous games, such as baseball, is prohibited except on the fields and courts or areas provided therefor.

(4) Certain behavior declared unlawful. (a) Intoxicating beverages. It shall be prohibited to bring controlled substances and/or alcoholic beverages at any time in any park with the exception of private permitted special events.

It shall be prohibited for anyone to enter or be within any park while under the influence of controlled substances and/or intoxicating beverages.

(b) Fireworks and explosives. Bring, or have in their possession, or set off or otherwise cause to explode or discharge or burn, any firecrackers, torpedo, rocket or other fireworks or explosives of inflammable material, or discharge them or throw them into any such area from land or highway adjacent thereto.

This prohibition includes any substance, compound mixture or articles that, in conjunction with any other substance or compound, would be dangerous from any of the foregoing standpoints. An exception is made regarding special events such as Fourth of July celebrations, etc.

(c) Weapons. All firearms are prohibited within the boundaries of any park, playground, civic center, or other building facility area owned, used or operated by the City of Greenbrier in accordance to *Tennessee Code Annotated*, § 39-17-1311.

(d) Piloted aircraft. Enter into any park with a pilot navigated aircraft. An exception may be granted by park staff in regards to special events and/or emergency situations.

(e) Domestic animals. Domestic animals are prohibited from being on trails, or in spectator, bleacher, practice or game areas. Nothing herein shall be construed as permitting the running of dogs at large. All dogs in those areas where such animals are permitted shall be restrained at all times on adequate leashes not greater than five feet (5') in length. Any pet found at large may be seized and impounded by the city.

(f) Reservation of facilities. Occupy any seat or bench, or enter into, or loiter or remain in, any pavilion or other park structure or section.

(g) Restrooms. Enter into any structure or section that is designated and reserved for the use of the opposite sex. Exception is made for children less than six (6) years of age.

(h) Dress. Appear at any place other than in proper clothing.

(i) Fires. Build, or attempt to build, a fire except in such areas and under such regulations as may be designated by the director or their designee. No person shall drop, throw or otherwise scatter lighted matches, burning cigarettes or cigars, tobacco paper or other inflammable material within any park area or on any highway, road or street abutting or contiguous thereto.

(j) Alms. Solicit alms or contributions for any purpose, whether public or private.

(k) Closed areas. Enter an area posted as "Closed to the Public," nor shall any person use, or abet the use, of any area in violation of posted notices.

(l) Games of chance. Gamble or participate in, or abet, in any game of chance.

(m) Going onto ice. Go onto ice on any water in, or adjacent to, any park.

(n) Loitering and boisterousness. Sleep or protractedly lounge on the seats or benches, or other areas, or in parked motor vehicles, or engage in loud, boisterous, threatening, abusive, insulting or indecent language, or engage in any disorderly conduct or behavior tending to be a breach to the public peace.

(o) Interference with permittees. Disturb or interfere unreasonably with any person or party occupying any area or participating in any activity under the authority of a permit.

(p) Skateboards. Skateboarding and skating is permitted except in

spectator or bleacher areas during games and/or practices, and at picnic shelters and other places where patrons gather.

(q) Smoking of tobacco products. Smoking of any tobacco product within the confines of any indoor recreation facility or within fifty feet (50') within spectator seating of any outdoor recreation facility shall be prohibited.

(r) Merchandising, advertising and signs. (i) Vending and peddling. Expose to offer for sale any article or thing, nor shall they station or place any stand, cart or vehicle for the transportation, sale or display of any such article or thing. Exception is here made to regularly licensed concessionaire acting by and under the authority and regulation of the director or their designee, and those conducting activities under a permit where such permit permits the sale of articles or things. Vendors utilized during special events shall be responsible for procuring all necessary permits.

(ii) Advertising. Announce, advertise or call the public attention in any way to any article or service for sale or hire.

(iii) Signs. Paste, glue, tack or otherwise post any sign, placard, advertisement or inscription whatever, nor shall any person erect, or cause to be erected, any sign whatever on any public lands or highways or roads adjacent to a city park without permit from the director. Organizations conducting seasonal programs by agreement on park owned or managed property may, by permit, erect signage for the purpose of program sponsorship during the time of use of that particular park facility.

(5) Park operating policy. (a) Closed areas. Any section of a city park may be declared closed to the public by the director at any time and for any interval of time, either temporarily or at regular and stated intervals (daily or otherwise), and either entirely or merely to certain uses as the director shall find reasonably necessary.

(b) Lost and found articles. The finding of lost articles by park attendants shall be reported to the director who shall make every reasonable effort to locate the owners. The director shall make every reasonable effort to find articles reported as lost.

(c) Permit. A permit shall be obtained from the director before participating in the following park activities: Overnight camping by organized groups under the sponsorship of youth development agencies; or sale of articles or things by a permittee for a charitable purpose.

(d) Additional rules and regulations. The director shall have the authority to promulgate such rules and regulations as may be necessary to carry out the provisions of this chapter and to assure an impartial, fair and safe use and enjoyment of city parks by those persons lawfully using the parks. The director shall have the authority to schedule the use of all parks and recreation facilities under this chapter. Regulations pertaining to specific activities shall be displayed in a prominent and public location at the point of the activity controlled. Rules and regulations adopted in accordance to this chapter shall have the same force



and effect as if copied herein verbatim. (Ord. #20-19, Jan. 2021, modified)

**2-105. Background checks.** Every appointed member shall be required to submit a background check every two (2) years after the initial background check.

**2-106. Enforcement.** (1) Officials. The director, designated department staff and police officers shall, in connection with their duties imposed by law, diligently enforce the provisions of this chapter.

(2) Ejectment. The director, designated department staff and police officers shall have the authority to eject from the parks any person whose action is in violation of this chapter.

(3) Citations. The director, designated department staff and police officers shall, in connection with their duties, impose citations to person or persons in violation of this chapter if such violation calls for a citation per City of Greenbrier Municipal Code, Title 6. (Ord. #20-19, Jan. 2021)

## CHAPTER 2

### **RESIDENCY REQUIREMENTS AND TERMS OF APPOINTMENTS**

#### **SECTION**

2-201. Requirements.

2-202. Exemption.

2-203. Background checks.

**2-201. Requirements.** Appointees and re-appointees must live within the boundaries of the Greenbrier High School district unless federal or state law requires otherwise, and must remain current on the payment of all taxes owed the city. (Ord. #20-19, Jan. 2021)

**2-202. Exemption.** Section 2-201 above shall not apply to the City of Greenbrier Board of Mayor and Aldermen, or city employee committees formed and working in accordance with their job responsibilities and duties. (Ord. #20-19, Jan. 2021)

**2-203. Background checks.** Every appointed member shall be required to submit a background check every two (2) years after the initial background check.

## CHAPTER 3

### RESIGNATION BY EXCESSIVE ABSENCES

#### SECTION

2-301. Resignation by excessive absences.

**2-301. Resignation by excessive absences.** An appointee of the various boards of the city who is absent from three (3) consecutive meetings without providing good cause therefore may be deemed to have resigned by the board of mayor and aldermen, and the board of mayor and aldermen may proceed to appoint his or her successor.

**TITLE 3****MUNICIPAL COURT****CHAPTER**

1. CITY JUDGE.
2. COURT ADMINISTRATION.
3. BONDS AND APPEALS.

**CHAPTER 1****CITY JUDGE****SECTION**

3-101. City judge.

**3-101. City judge.** (1) Appointment. The city judge designated by the charter to handle judicial matters within the city shall be appointed by the board of mayor and aldermen and shall serve at the pleasure of the governing body. Vacancies in the office of the city judge arising from resignation, disqualification or for any other reason whatsoever, shall be filled in the same manner as prescribed for the appointment of the city judge.

(2) Qualifications. The city judge shall be a minimum of twenty five (25) years of age, be licensed by the State of Tennessee to practice law, and be a resident of Robertson County. If the city judge for any reason removes his domicile from Robertson County after his appointment, the removal of his domicile shall automatically create a vacancy in the office of city judge.

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

**3-102. Jurisdiction.** The city judge shall have the authority to try persons charged with the violation of municipal ordinances, and to punish persons convicted of such violations by levying a civil penalty under the general penalty provision of this code.

## CHAPTER 2

### COURT ADMINISTRATION

#### SECTION

3-201. Maintenance of docket.

3-202. Imposition of fines, penalties, and costs.

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

3-204. Disturbance of proceedings.

3-205. Trial and disposition of cases.

**3-201. Maintenance of docket.** The city court clerk shall keep a complete docket of all matters coming before him in his judicial capacity. The docket shall include for each defendant such information as his name; warrant and/or summons numbers; alleged offense; disposition; fines and costs imposed, and whether collected; whether committed to workhouse; and all other information that may be relevant. (1997 Code, § 3-201, modified)

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

In all cases heard and determined by him to be found guilty, the city judge shall impose court costs, in addition to all fines and penalties, in the amount of one hundred dollars (\$100.00) which shall not include the cost of the state and local litigation tax, or the one dollar (\$1.00) fee to be forward to the state treasurer to be used by the administrative office of the courts for training and continuing education courses for municipal court judges and municipal court clerks, except for those cases determined to be dismissed with cost.

The board of mayor and aldermen may establish a schedule of fines and costs of violators who choose to plead guilty or are found guilty if the board should determine that it is in the city's best interest to do so. (Ord. #19-04, May 2019, modified)

**3-203. Disposition and report of fines and costs.** All funds coming into the hands of the city judge in the form of fines, costs, and forfeitures shall be recorded by him and paid over daily to the municipality. At the end of each month he shall submit to the governing body a report accounting for the collection or non-collection of all fines and costs imposed by his court during the current month and to date for the current fiscal year. (1997 Code, § 3-203, modified)

**3-204. Disturbance of proceedings.** It shall be unlawful for any person to create any disturbance of any trial before the city court by making loud or unusual noises, by using indecorous, profane, or blasphemous language, or by any distracting conduct whatsoever. (1997 Code, § 3-204)

**3-205. Trial and disposition of cases.** Every person charged with violating a municipal ordinance shall be entitled to an immediate trial and disposition of his case; provided the city court is in session or the city judge is reasonably available. However, the provisions of this section shall not apply when the alleged offender, by reason of drunkenness or other incapacity, is not in a proper condition or is not able to appear before the court. (1997 Code, § 3-205)

**CHAPTER 3****BONDS AND APPEALS****SECTION**

3-301. Appeals.

**3-301. Appeals.** Any defendant who is dissatisfied with any judgment of the city court against him may, within ten (10) days next after such judgment is rendered, appeal to the next term of the circuit court upon posting a proper appeal bond.<sup>1</sup> (1997 Code, § 3-301)

---

<sup>1</sup>State law reference  
*Tennessee Code Annotated*, § 27-5-101.

**TITLE 4****MUNICIPAL PERSONNEL****CHAPTER**

1. PERSONNEL SYSTEM.
2. INFECTIOUS DISEASE CONTROL POLICY.
3. TRAVEL REIMBURSEMENT REGULATIONS.
4. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.

**CHAPTER 1****PERSONNEL SYSTEM****SECTION**

- 4-101. Purpose.
- 4-102. Coverage.
- 4-103. Personnel manual.

**4-101. Purpose.** The purpose of this chapter is to establish a system of personnel administration in the City of Greenbrier that is based on merit and fitness. The system shall provide means to select, develop, and maintain an effective municipal work force through the impartial application of personnel policies and procedures free of personal and political considerations and regardless of race, sex, age, creed, national origin or handicapping condition. (1997 Code, § 4-201)

**4-102. Coverage.** All offices and positions of the municipal government are divided into the classified service and the exempt service. The classified service shall include all regular full-time employees in the city's service unless specifically placed in the exempt service.

Offices and positions of the municipal government placed in the exempt service are as follows:

- (1) All elected officials.
- (2) Members of appointed boards and commissions.
- (3) Consultants, advisers, and legal counsel rendering temporary professional service.
- (4) City attorney.
- (5) Independent contractors.
- (6) Persons employed not more than six (6) months during a fiscal year.
- (7) Part-time employees paid by the hour and not considered regular part-time.
- (8) Volunteer personnel appointed without compensation.



(9) City judge.

All employment positions of the municipal government not expressly exempted from coverage by this section shall be subject to the provisions of the city charter. (1997 Code, § 4-202)

**4-103. Personnel manual.** Policies, procedures, and regulations related to personnel and personnel management are administered according to the City of Greenbrier Personnel Manual.<sup>1</sup> The City of Greenbrier Personnel Manual is revised and adopted by the board of mayor and aldermen by resolution when required. (Ord. #22-10, July 2022)

---

<sup>1</sup>The personnel manual for the City of Greenbrier, and any amendments thereto, may be found in the recorder's office.

## CHAPTER 2

### INFECTIOUS DISEASE CONTROL POLICY

#### SECTION

- 4-201. Purpose.
- 4-202. Coverage.
- 4-203. Administration.
- 4-204. Definitions.
- 4-205. Policy statement.
- 4-206. General guidelines.
- 4-207. Hepatitis B vaccinations.
- 4-208. Reporting potential exposure.
- 4-209. Hepatitis B virus post-exposure management.
- 4-210. Human immunodeficiency virus post-exposure management.
- 4-211. Disability benefits.
- 4-212. Training regular employees.
- 4-213. Training high risk employees.
- 4-214. Training new employees.
- 4-215. Records and reports.
- 4-216. Legal rights of victims of communicable diseases.

**4-201. Purpose.** It is the responsibility of the City of Greenbrier to provide employees a place of employment which is free from recognized hazards that may cause death or serious physical harm. In providing services to the citizens of the City of Greenbrier, employees may come in contact with life-threatening infectious diseases which can be transmitted through job related activities. It is important that both citizens and employees are protected from the transmission of diseases just as it is equally important that neither is discriminated against because of basic misconceptions about various diseases and illnesses.

The purpose of this policy is to establish a comprehensive set of rules and regulations governing the prevention of discrimination and potential occupational exposure to Hepatitis B Virus (HBV), the Human Immunodeficiency Virus (HIV), and Tuberculosis (TB). (1997 Code, § 4-301)

**4-202. Coverage.** Occupational exposures may occur in many ways, including needle sticks, cut injuries or blood spills. Several classes of employees are assumed to be at high risk for blood borne infections due to their routinely increased exposure to infectious material from potentially infected individuals. Those high risk occupations include, but are not limited to:

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

- (4) Police and security personnel;
- (5) Firefighters;
- (6) Sanitation and landfill workers; and
- (7) Any other employee deemed to be at high risk per this policy and an exposure determination. (1997 Code, § 4-302)

**4-203. Administration.** This infection control policy shall be administered by the mayor, or his/her designated representative, who shall have the following duties and responsibilities:

- (1) Exercise leadership in implementation and maintenance of an effective infection control policy subject to the provisions of this chapter, other ordinances, the city charter, and federal and state law relating to OSHA regulations;
- (2) Make an exposure determination for all employee positions to determine a possible exposure to blood or other potentially infectious materials;
- (3) Maintain records of all employees and incidents subject to the provisions of this chapter;
- (4) Conduct periodic inspections to determine compliance with the infection control policy by municipal employees;
- (5) Coordinate and document all relevant training activities in support of the infection control policy;
- (6) Prepare and recommend to the board of mayor and aldermen any amendments or changes to the infection control policy;
- (7) Identify any and all housekeeping operations involving substantial risk of direct exposure to potentially infectious materials and shall address the proper precautions to be taken while cleaning rooms and blood spills; and
- (8) Perform such other duties and exercise such other authority as may be prescribed by the board of mayor and aldermen. (1997 Code, § 4-303)

**4-204. Definitions.** (1) "Body fluid" means fluids that have been recognized by the Center for Disease Control as directly linked to the transmission of HIV and/or HBV and/or to which universal precautions apply: blood, semen, blood products, vaginal secretions, cerebrospinal fluid, synovial fluid, pericardial fluid, amniotic fluid, and concentrated HIV or HBV viruses.

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

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

(4) "Human Immunodeficiency Virus (HIV)" means the virus that causes Acquired Immunodeficiency Syndrome (AIDS). HIV is transmitted

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

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

(6) "Universal precautions" means a system of infectious disease control which assumes that every direct contact with body fluid is infectious and requires every employee exposed to direct contact with potentially infectious materials to be protected as though such body fluid were HBV or HIV infected. (1997 Code, § 4-304)

**4-205. Policy statement.** All blood and other potentially infectious materials are infectious for several blood-borne pathogens. Some body fluids can also transmit infections. For this reason, the Center for Disease Control developed the strategy that everyone should always take particular care when there is a potential exposure. These precautions have been termed "universal precautions."

Universal precautions stress that all persons should be assumed to be infectious for HIV and/or other blood-borne pathogens. Universal precautions apply to blood, tissues, and other potentially infectious materials. Universal precautions also apply to semen (although occupational risk or exposure is quite limited), vaginal secretions, and to cerebrospinal, synovial, pleural, peritoneal, pericardial and amniotic fluids. Universal precautions do not apply to feces, nasal secretions, human breast milk, sputum, saliva, sweat, tears, urine, and vomitus unless these substances contain visible blood. (1997 Code, § 4-305)

**4-206. General guidelines.** General guidelines which shall be used by everyone include:

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

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

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

(4) All workers shall take precautions to prevent injuries caused by needles, scalpel blades, and other sharp instruments. To prevent needle stick injuries, needles shall not be recapped, purposely bent or broken by hand, removed from disposable syringes, or otherwise manipulated by hand. After they

are used, disposable syringes and needles, scalpel blades and other sharp items shall be placed in puncture resistant containers for disposal. The puncture resistant container shall be located as close as practical to the use area.

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

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

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

(c) While cleaning up an area that has been contaminated with one (1) of the above.

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

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

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

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

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

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

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

(12) Tags shall be used as a means of preventing accidental injury or illness to employees who are exposed to hazardous, or potentially hazardous, conditions, equipment or operations which are out of the ordinary, unexpected or not readily apparent. Tags shall be used until such time as the identified hazard is eliminated or the hazardous operation is completed.

All required tags shall meet the following criteria:

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

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

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

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

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

(14) Whenever possible, disposable equipment shall be used to minimize and contain clean-up. (1997 Code, § 4-306)

**4-207. Hepatitis B vaccinations.** The City of Greenbrier shall offer the appropriate hepatitis B vaccination to employees at risk of exposure free of charge and in amounts and at times prescribed by standard medical practices. The vaccination shall be voluntarily administered. High risk employees who wish to take the HBV vaccination should notify their department head who shall make the appropriate arrangements through the infectious disease control coordinator. (1997 Code, § 4-307)

**4-208. Reporting potential exposure.** City employees shall observe the following procedures for reporting a job exposure incident that may put them at risk for HIV or HBV infections (i.e., needle sticks, blood contact on broken skin, body fluid contact with eyes or mouth, etc.):

(1) Notify the infectious disease control coordinator of the contact incident and details thereof.

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

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

Once an exposure has occurred, a blood sample should be drawn after consent is obtained from the individual from whom exposure occurred and tested for Hepatitis B Surface Antigen (HBsAg) and/or antibody to Human Immunodeficiency Virus (HIV antibody). Testing of the source individual should be done at a location where appropriate pretest counseling is available. Post-test counseling and referral for treatment should also be provided. (1997 Code, § 4-308)

**4-209. Hepatitis B virus post-exposure management.** For an exposure to a source individual found to be positive for HBsAg, the worker who has not previously been given the hepatitis B vaccine should receive the vaccine series. A single dose of Hepatitis B Immune Globulin (HBIG) is also recommended if it can be given within seven (7) days of exposure.

For exposure from an HBsAg-positive source to workers who have previously received the vaccine, the exposed worker should be tested for antibodies to Hepatitis B Surface Antigen (anti-HBs), and given one (1) dose of vaccine and one (1) dose of HBIG if the antibody level in the worker's blood sample is inadequate (i.e., 10 SRU by RIA, negative by EIA).

If the source individual is negative for HBsAg and the worker has not been vaccinated, this opportunity should be taken to provide the hepatitis B vaccine series. HBIG administration should be considered on an individual basis when the source individual is known or suspected to be at high risk of HBV infection. Management and treatment, if any, of previously vaccinated workers who receive an exposure from a source who refuses testing or is not identifiable should be individualized. (1997 Code, § 4-309)

**4-210. Human immunodeficiency virus post-exposure management.** For any exposure to a source individual who has AIDS, who is found to be positive for HIV infection, or who refuses testing, the worker should be counseled regarding the risk of infection and evaluated clinically and serologically for evidence of HIV infection as soon as possible after the exposure. The worker should be advised to report and seek medical evaluation for any acute febrile illness that occurs within twelve (12) weeks after the exposure. Such an illness, particularly one characterized by fever, rash, or lymphadenopathy, may be indicative of recent HIV infection.

Following the initial test at the time of exposure, seronegative workers should be retested six (6) weeks, twelve (12) weeks, and six (6) months after exposure to determine whether transmission has occurred. During this follow-up period (especially the first six to twelve (6 to 12) weeks after exposure) exposed workers should follow the U.S. Public Health service recommendation for preventing transmission of HIV. These include refraining from blood donations

and using appropriate protection during sexual intercourse. During all phases of follow-up, it is vital that worker confidentiality be protected.

If the source individual was tested and found to be seronegative, baseline testing of the exposed worker with follow-up testing twelve (12) weeks later may be performed if desired by the worker or recommended by the health care provider. If the source individual cannot be identified, decisions regarding appropriate follow-up should be individualized. Serologic testing should be made available by the city to all workers who may be concerned they have been infected with HIV through an occupational exposure. (1997 Code, § 4-310)

**4-211. Disability benefits.** Entitlement to disability benefits and any other benefits available for employees who suffer from on-the-job injuries will be determined by the Tennessee Worker's Compensations Bureau in accordance with the provisions of *Tennessee Code Annotated*, § 50-6-303. (1997 Code, § 4-311)

**4-212. Training regular employees.** On an annual basis all employees shall receive training and education on precautionary measures, epidemiology, modes of transmission and prevention of HIV/HBV infection and procedures to be used if they are exposed to needle sticks or potentially infectious materials. They shall also be counseled regarding possible risks to the fetus from HIV/HBV and other associated infectious agents. (1997 Code, § 4-312)

**4-213. Training high risk employees.** In addition to the above, high risk employees shall also receive training regarding the location and proper use of personal protective equipment. They shall be trained concerning proper work practices and understand the concept of "universal precautions" as it applies to their work situation. They shall also be trained about the meaning of color coding and other methods used to designate contaminated material. Where tags are used, training shall cover precautions to be used in handling contaminated material as per this policy. (1997 Code, § 4-313)

**4-214. Training new employees.** During the new employee's orientation to his/her job, all new employees will be trained on the effects of infectious disease prior to putting them to work. (1997 Code, § 4-314)

**4-215. Records and reports.** (1) Reports. Occupational injury and illness records shall be maintained by the infectious disease control coordinator. Statistics shall be maintained on the OSHA-200 report. Only those work-related injuries that involve loss of consciousness, transfer to another job, restriction of work or motion, or medical treatment are required to be put on the OSHA-200.

(2) Needle sticks. Needle sticks, like any other puncture wound, are considered injuries for recordkeeping purposes due to the instantaneous nature of the event. Therefore, any needle stick requiring medical treatment (i.e.,



gamma globulin, hepatitis B immune globulin, hepatitis B vaccine, etc.) shall be recorded.

(3) Prescription medication. Likewise, the use of prescription medication (beyond a single dose for minor injury or discomfort) is considered medical treatment. Since these types of treatment are considered necessary, and must be administered by physician or licensed medical personnel, such injuries cannot be considered minor and must be reported.

(4) Employee interviews. Should the city be inspected by the U.S. Department of Labor, Office of Health Compliance, the compliance safety and health officer may wish to interview employees. Employees are expected to cooperate fully with the compliance officers. (1997 Code, § 4-315)

**4-216. Legal rights of victims of communicable diseases**. Victims of communicable diseases have the legal right to expect, and municipal employees, including police and emergency service officers, are duty bound to provide, the same level of service and enforcement as any other individual would receive.

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

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

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

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

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

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

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

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

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

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

(11) Any employee who disseminates confidential information in regard to a victim, or suspected victim, of a communicable disease in violation of this policy shall be subject to serious disciplinary action and/or civil and/or criminal prosecution. (1997 Code, § 4-316)

## CHAPTER 3

### TRAVEL REIMBURSEMENT REGULATIONS

#### SECTION

- 4-301. Purpose.
- 4-302. Enforcement.
- 4-303. Travel policy.
- 4-304. Travel reimbursement rate schedules.
- 4-305. Administrative procedures.

**4-301. Purpose.** The purpose of this chapter and referenced regulations is to bring the city into compliance with *Tennessee Code Annotated*, § 6-54-901--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 ordinance 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.

**4-302. Enforcement.** The Chief Administrative Officer (CAO) of the city or his or her designee shall be responsible for the enforcement of these travel regulations.

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

(2) Authorized travelers are entitled to reimbursement of certain expenditures incurred while traveling on official business for the city.

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. Under certain conditions, entertainment expenses may be eligible for reimbursement.

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

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

(ii) 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 call, public carrier travel, conference fee and other reimbursable costs.

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

(9) Mileage and motel expenses incurred within the city are not ordinarily considered eligible expenses for reimbursement.

**4-304. Travel reimbursement rate schedules.** Authorized travelers shall be reimbursed according to the State of Tennessee travel regulation rates. The city's travel reimbursement rates will automatically change when the state 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.

**4-305. Administrative procedures.** The city adopts and incorporates by reference--as if fully set out herein--the administrative procedures submitted by MTAS to, and approved by letter by, the Comptroller of the Treasury, State of Tennessee. A copy of the administrative procedures is on file in the office of the recorder.<sup>1</sup>

---

<sup>1</sup>State law reference

*Tennessee Code Annotated*, § 6-54-904, requires a municipality to notify the comptroller in writing that it has adopted the MTAS policy, including the date of such adoption.

CHAPTER 4

**OCCUPATIONAL SAFETY AND HEALTH PROGRAM**

**SECTION**

4-401. Adopted by reference.

**4-401. Adopted by reference.** The City of Greenbrier herein adopts *Tennessee Code Annotated*, title 50, chapter 3, the Occupational Safety and Health Act of 1972, as if set out verbatim herein.

**TITLE 5****MUNICIPAL FINANCE AND TAXATION****CHAPTER**

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

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

- 5-101. Official depository for city funds.
- 5-102. Processing fee for credit and debit cards.

**5-101. Official depository for city funds.** The city treasurer shall choose the official depository for all funds for the City of Greenbrier. (1997 Code, § 5-101, modified)

**5-102. Processing fee for credit and debit cards.** (1) The City of Greenbrier is hereby establishing a processing fee of two dollars and ninety five cents (\$2.95) from customers using credit and debit cards as methods of payment for monthly utility charges, court fees and fines, permits (excluding building), and other fee/charges that are under one hundred dollars (\$100.00). For amounts over one hundred dollars (\$100.00), the processing fee is 2.95% of the amount of the charge.

(2) The City of Greenbrier is hereby establishing a processing fee of two and one-half percent (2.5%) from customers using credit and debit cards as methods of payment for property tax, tap fees, cemetery lots, building permits, and any other fee/charge.

(3) In the event that the credit or debit card company issuing the card does not honor payment of the charge, the city shall collect the same fee that it normally charges for returned checks, and this fee shall be in addition to the normal fee for using a credit or debit card for payment. (1997 Code, § 5-102, modified)

## CHAPTER 2

### REAL PROPERTY TAXES

#### SECTION

5-201. When due and payable.

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

5-203. Property tax freeze program adopted.

**5-201. When due and payable.**<sup>1</sup> Taxes levied by the municipality against real property shall become due and payable annually on the first day of November of the year for which levied. (1997 Code, § 5-201)

**5-202. When delinquent--penalty and interest.**<sup>2</sup> All real property taxes shall become delinquent on, and after, the first day of March next after they become due and payable, and shall thereupon be subject to such penalty and interest as is authorized and prescribed by the state law for delinquent county real property taxes.<sup>3</sup> (1997 Code, § 5-202)

---

<sup>1</sup>State law references

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

<sup>2</sup>Charter and state law reference

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

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

A municipality has the option of collecting delinquent property taxes any one (1) of three (3) 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.



**5-203. Property tax freeze program adopted.** (1) The property tax freeze program, as provided for in Chapter 581 of the Public Acts of 2007, codified in *Tennessee Code Annotated*, § 67-5-705, is hereby adopted by the Board of Mayor and Aldermen of the City of Greenbrier, Tennessee.

(2) The property tax freeze program shall be implemented and administered in accordance with *Tennessee Code Annotated*, § 67-5-705, and the rules promulgated by the State Board of Equalization through the Division of Property Assessments. (1997 Code, § 5-203)

## CHAPTER 3

### PRIVILEGE TAXES

#### SECTION

5-301. Tax levied.

5-302. License required.

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

**5-302. License required.** No person shall exercise any such privilege within the city without a currently effective privilege license, which shall be issued by the recorder to each applicant therefor upon the applicant's payment of the appropriate privilege tax.

## CHAPTER 4

WHOLESALE BEER TAX

## SECTION

5-401. To be collected.

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

---

<sup>1</sup>State law reference

*Tennessee Code Annotated*, title 57, chapter 6 provides for a tax in accordance with § 57-6-103. Every wholesaler is required to remit to each municipality the amount of the net tax on beer wholesale sales to retailers and other persons within the corporate limits of the municipality.

Municipal code references

Alcohol and beer regulations: title 8.

Beer privilege tax: § 8-208.

**TITLE 6****LAW ENFORCEMENT****CHAPTER****1. POLICE AND ARREST.****CHAPTER 1****POLICE AND ARREST<sup>1</sup>****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 and be armed.

6-104. When police officers to make arrests.

6-105. 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. (1997 Code, § 6-101)

**6-102. Police officers to preserve law and order, etc.** Police officers shall preserve law and order within the municipality. They shall patrol the municipality 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. (1997 Code, § 6-102)

**6-103. Police officers to wear uniforms and be armed.** All police officers shall wear such uniform and badge as the governing body shall authorize, and shall carry a service pistol at all times while on duty unless otherwise expressly directed by the chief for a special assignment. (1997 Code, § 6-103)

**6-104. When police officers to make arrests<sup>1</sup>.** Unless otherwise authorized or directed in this code or other applicable law, an arrest of the person shall be made by a police officer in the following cases:

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

---

<sup>1</sup>Municipal code reference

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

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

(3) Whenever a felony has in fact been committed and the officer has reasonable cause to believe the person has committed it. (1997 Code, § 6-104)

**6-105. 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 officer.

(3) All police investigations made, funerals convoyed, fire calls answered, and other miscellaneous activities of the police department. (1997 Code, § 6-106)

**TITLE 7**

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

**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 be the corporate limits of the City of Greenbrier. (1997 Code, § 7-101)

---

<sup>1</sup>Municipal code reference

Building, utility and residential codes: title 12.

## CHAPTER 2

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

#### SECTION

- 7-201. Fire code adopted.
- 7-202. Enforcement.
- 7-203. Definition of "municipality."
- 7-204. Storage of explosives, flammable liquids, etc.
- 7-205. Gasoline trucks.
- 7-206. Variances.
- 7-207. Modifications.
- 7-208. Violations and penalty.

**7-201. Fire code adopted.** 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*,<sup>2</sup> 2021 edition, and *NFPA 101 Life Safety Code*,<sup>3</sup> 2021 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 as fully as if copied herein verbatim, and is hereinafter referred to as the fire code. Said fire code is shall be controlling within the corporate limits.

**7-202. Enforcement.** The fire prevention code herein adopted by reference shall be enforced by the chief of the fire department. He shall have the same powers as the state fire marshal. (1997 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 Greenbrier, Tennessee. (1997 Code, § 7-203)

---

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

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

<sup>3</sup>Copies of this code may be purchased from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269-9101.

**7-204. Storage of explosives, flammable liquids, etc.** The limits referred to in § 1901.4.2 of the fire prevention code, in which storage of explosive materials is prohibited, are hereby declared to be the fire limits as set out in § 7-101 of this code.

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

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

The limits referred to in § 1701.4.2 of the fire prevention code, in which bulk storage of liquefied petroleum gas is restricted, are hereby declared to be the fire limits as set out in § 7-101 of this code. (1997 Code, § 7-204)

**7-205. Gasoline trucks.** No person shall operate or park any gasoline tank truck within the Central Business District or within any residential area at any time except for the purpose of, and while actually engaged in, the expeditious delivery of gasoline. (1997 Code, § 7-205)

**7-206. Variances.** The chief of the fire department may recommend to the governing body variances from the provisions of the fire prevention code upon application, in writing, by any property owner or lessee, or the duly authorized agent of either, when there are practical difficulties in the way of carrying out the strict letter of the code; provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such variances when granted or allowed shall be contained in a resolution of the governing body. (1997 Code, § 7-206)

**7-207. Modifications.** Within said code, when reference is made to the duties of a certain official named therein, that designated official of the City of Greenbrier, Robertson County, Tennessee, who has duties corresponding to those of the named official in said code, shall be deemed to be the responsible official insofar as enforcing the provisions of said code are concerned. (1997 Code, § 7-208)

**7-208. Violations and penalty.** Persons who shall violate a provision of this code, fail to comply with any of the requirements thereof or erect, install, alter or repair work in violation of the approved construction documents or directive of the fire code official, or a permit or certificate issued under the provisions of this code, shall be subject to a penalty of fifty dollars (\$50.00) for each offense. Each person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this code is committed or continued. (Ord. #24-08, June 2024)



## CHAPTER 3

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

#### SECTION

- 7-301. Establishment, equipment, and membership.
- 7-302. Operational funds.
- 7-303. Objectives.
- 7-304. Organization, rules, and regulations.
- 7-305. Records and reports.
- 7-306. Disciplinary action.
- 7-307. Chief responsible for training.
- 7-308. Chief to be assistant to state officer.
- 7-309. Use of equipment outside city limits.
- 7-310. Fire hydrants required to be color coded.

**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 and from other contributions. All apparatus, equipment, and supplies of the fire department shall be purchased with the approval of the fire chief in accordance with municipal purchasing requirements, and shall be and remain the property of the city. The fire department shall be composed of a chief appointed by the board of mayor and aldermen, and such number of subordinate officers and firefighters, as may be recommended by the fire chief. The fire department shall consist of no more than forty (40) volunteers in addition to the fire chief, and all officers and such paid firefighters as shall be provided for in the annual operating budget of the city. (1997 Code, § 7-301)

**7-302. Operational funds.** The board of mayor and aldermen shall provide for the operations of the fire department in its annual budget. Any funds raised by the fire department auxiliary, or by any individual or group of volunteer firefighters may be accepted by the board of mayor and aldermen and may be used for purposes designated by the respective contributors. All equipment, materials, supplies, etc. purchased with contributed funds shall become the property of the City of Greenbrier. The board of mayor and aldermen may reject any gift or contribution it deems not to be in the best interest of the City of Greenbrier. (1997 Code, § 7-302)

---

<sup>1</sup>Municipal code references

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

Travel policy: title 4, chapter 4.

**7-303. Objectives.** The fire department shall have as its objectives:

- (1) To prevent uncontrolled fires from starting.
- (2) To prevent the loss of life and property because of fires.
- (3) To confine fires to their places of origin.
- (4) To extinguish uncontrolled fires.
- (5) To prevent loss of life from asphyxiation or drowning.
- (6) To perform such rescue work as its equipment and/or the training of its personnel makes practicable.
- (7) To provide emergency medical care at the highest level that the equipment and training of the personnel makes practicable.
- (8) To provide code enforcement and building inspections as directed by the city within adopted codes and ordinances.
- (9) To serve as the emergency management agency of the city.
- (10) To protect the health and safety of the citizens from the transportation, storage, or manufacture of hazardous materials to the extent possible that the level of equipment and training will allow.
- (11) To work with the water department to ensure that adequate water supplies for fire protection are available.
- (12) To provide public fire education materials and information to the citizens in order that they may protect themselves from harm. (1997 Code, § 7-303)

**7-304. Organization, rules, and regulations.** The Chief of the City of Greenbrier Fire Department shall, under the direction of the board of mayor and aldermen, set up the organization of the department, make work assignments to individuals, based on input, suggestions and recommendations from the members of the volunteer fire department, and shall formulate and enforce such rules and regulations as shall be necessary for the orderly and efficient operation of the fire department. (1997 Code, § 7-304)

**7-305. Records and reports.** The Chief of the City of Greenbrier Fire Department shall prepare the annual departmental budget to be approved by the board of mayor and aldermen, keep adequate records of all fires, inspections, apparatus, equipment, personnel, and work of the department. He shall submit such written reports to the mayor, as the mayor requires. The mayor shall submit such written reports to the board of mayor and aldermen, as the board of mayor and aldermen requires. (1997 Code, § 7-305)

**7-306. Disciplinary action.** Any disciplinary action to be taken with regard to any firefighter shall follow those procedures as contained under the City of Greenbrier Personnel Policies and Procedures when such action is deemed to be necessary for the good of the department. The chief may be suspended up to thirty (30) days by the mayor. However, only the board of mayor and aldermen shall dismiss the fire chief. (1997 Code, § 7-306)

**7-307. Chief responsible for training.** The chief of the fire department shall be fully responsible for the training of the firefighters and for maintenance of all property and equipment of the fire department, under the direction and subject to the requirements of the board of mayor and aldermen. Each volunteer firefighter and/or officer shall receive no less than forty (40) hours of in-service firefighter training annually, after an initial training period consisting of no less than sixteen (16) hours of basic firefighter training during the first ninety (90) days of his membership in the fire department. Paid firefighters shall be trained in accordance with the standards of the Tennessee Commission on Firefighter Standards and Education. (1997 Code, § 7-307)

**7-308. Chief to be assistant to state officer.** Pursuant to requirements of *Tennessee Code Annotated*, § 68-102-108, the fire chief is designated as an assistant to the state commissioner of 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 commissioner in the execution of the provisions thereof. (1997 Code, § 7-308)

**7-309. Use of equipment outside city limits.** Personnel and/or equipment of the City of Greenbrier Fire Department may be used for fighting any fire outside the city limits if:

(1) In the opinion of the fire chief, the fire is in such hazardous proximity to property owned or located within the city as to endanger the city property; and

(2) The board of mayor and aldermen has developed policies for providing emergency services outside the city limits or entering into a contract or mutual aid agreement pursuant to the authority of:

(a) The Local Government Emergency Assistance Act of 1987, as amended, codified in *Tennessee Code Annotated*, §§ 58-2-601, *et seq.*

(b) *Tennessee Code Annotated*, §§ 12-9-101, *et seq.*

(c) *Tennessee Code Annotated*, § 6-54-601. (1997 Code, § 7-309)

**7-310. Fire hydrants required to be color coded.** After installation, all new fire hydrants shall be tested for flow and residual pressure. Existing fire hydrants shall be tested upon the next scheduled maintenance cycle. All fire hydrants shall be color coded according to the standard color scheme of the National Fire Prevention Association as listed herein.

The top bonnet and nozzle caps of each hydrant shall be painted with the appropriate standard color designation to indicate the flow capacity of each hydrant. The color schemes of the hydrant top bonnet and nozzle caps, along with the corresponding flow rates and hydrant classes, shall be as follows:

<b><u>Hydrant Class</u></b>	<b><u>Flow Rate at 20 PSI</u></b>	<b><u>Color</u></b>
Class AA	1,500 GPM and Above	Light Blue
Class A	1,000 GPM - 1,499 GPM	Green
Class B	500 GPM - 999 GPM	Orange
Class C	0 GPM - 499 GPM	Red

Any hydrant which is unable to maintain a residual pressure of at least twenty (20) psi at full open flow shall have its rated residual pressure plainly stenciled on the top bonnet of the hydrant.

Fire department pumpers shall not pump from any Class C hydrant.  
(1997 Code, § 7-310)

## CHAPTER 4

**FIRE SERVICE OUTSIDE CITY LIMITS****SECTION**

7-401. Equipment to be used only within corporate limits generally.

**7-401. Equipment to be used only within corporate limits generally.** No equipment of the fire department shall be used for fighting any fire outside the corporate limits unless the fire is on city property or, in the opinion of the chief of the fire department, is in such hazardous proximity to property owned by, or located within, the city as to endanger the city property, or unless expressly authorized, in writing, by the municipal governing body.<sup>1</sup> (1997 Code, § 7-401)

---

<sup>1</sup>See Ord. #96-04, which is a mutual aid agreement between the City of Greenbrier and the County of Robertson, pursuant to *Tennessee Code Annotated*, § 6-54-601, of record in the office of the recorder.

## CHAPTER 5

### FIREWORKS

#### SECTION

- 7-501. Definitions.
- 7-502. Permits and permit fees.
- 7-503. Permit revocation.
- 7-504. Permissible fireworks.
- 7-505. Storing and structures.
- 7-506. Limitations on structures.
- 7-507. Location of fireworks outlets.
- 7-508. Parking for retail fireworks sales site.
- 7-509. Additional standards for fireworks retailers.
- 7-510. Unlawful sale to certain children and other persons; unlawful use of fireworks.
- 7-511. Limited time period to use fireworks.
- 7-512. Exemptions.
- 7-513. Violations and penalty.

**7-501. Definitions.** (1) As used in this chapter, unless the content otherwise requires:

(a) (i) "Fireworks" means any composition or device for the purpose of producing a visible or an audible effect by combustion, deflagration, or detonation, and which meets the definition of:

(A) All articles of fireworks classified as 1.4G, or referred to as "consumer fireworks," or "Class C common fireworks;"

(B) Theatrical and novelty, classified as 1.4S; or

(C) Display fireworks, classified as 1.3G, as set forth in the U.S. Department of Transportation's (DOT) Hazardous Materials Regulation, 49 CFR parts 171-180.

(ii) Exceptions: (A) Toy caps for use in toy pistols, toy canes, or toy guns, and novelties and trick noisemakers manufactured in accordance with DOT regulations, 49 CFR § 173.100(p), and packed and shipped according to those regulations;

(B) Model rockets and model rocket motors designed, sold, and used for the purpose of propelling recoverable aero models; and

(C) Propelling or expelling charges consisting of a mixture of sulfur, charcoal, and saltpeter are not considered as designed to produce audible effects.

(b) "Mobile retailer" means a vendor operating from motor vehicles, trailers, bicycles, or motorbikes.

(c) "Permit" means the written authority of the City of Greenbrier issued under the authority of this section.

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

(e) "Retailer" means any person engaged in the business of making retail sales of fireworks to the general public.

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

(g) "State Fire Marshal permit" means the appropriate fireworks permit issued by the Tennessee Fire Marshal under the authority of *Tennessee Code Annotated*, §§ 68-104-101, *et seq.*

(2) Singular words and plural words used in the singular include the plural and the plural as singular. (Ord. #20-15, Dec. 2020)

**7-502. Permits and permit fees.** (1) It is unlawful for any person to sell, or to offer for sale, in the City of Greenbrier any item of fireworks without first having secured a state fire marshal permit and a permit issued by the City of Greenbrier.

(a) Permits are not transferable.

(b) A permit (to sell fireworks to the general public) is valid only from June 20 through July 9, or December 10 through January 5.

(c) The permit fee for retail permits is one thousand dollars (\$1,000.00) for each time period.

(d) The fee for public displays using special display (1.3G) fireworks is fifty dollars (\$50.00).

(e) Schools, wedding groups, businesses, and civic clubs that desire to have a 1.3G special display or 1.4G consumer fireworks display may obtain a permit to use fireworks for any time of the year by paying a fifty dollar (\$50.00) permit fee for each event and obtaining a permit from the city.

(2) A permit to sell fireworks in the City of Greenbrier must be obtained at least five (5) business days prior to the date on which the applicant begins making sales. Each application shall contain the following:

(a) The application must include the name, address, and telephone number of applicants.

(b) The applicant must be the natural person who will operate or be responsible for sales.

(c) The applicant's name must be the same as the name on the state fire marshal permit.

(d) The applicant is liable for all violations of this chapter by persons under his/her supervision.

(3) A copy of the state fire marshal permit (for a state permit to be obtained by a retailer, the mayor must sign in behalf of the retailer an application for fireworks permit that the state requires before a state permit is issued to a retailer for a specific location).

(4) A person that applies for a retail fireworks permit must show proof that a state sales tax number has been obtained for sales tax purposes.

(5) A site plan must be submitted that includes the dimensions of the lot, size and location of structure, setback of structure from the right-of-way, location of other structures in the area that are occupied, location and number of parking places, location of any nearby residences, location of the nearest fuel outlets, and location of other fireworks outlets if located within seven hundred fifty feet (750') of a retail structure.

(6) Mobile vendors are not permitted.

(7) Flashing signs are not permitted.

(8) One (1) double-faced sign is permitted; each sign face may not exceed thirty-six (36) square feet.

(9) The application must contain evidence that general liability insurance has been obtained by the applicant naming the City of Greenbrier as additional insured for at least two million dollars (\$2,000,000.00) for each occurrence, whether in respect to bodily injury liability or property damage liability or bodily injury liability and property damage liability combined.

(10) The application must disclose the location where the applicant will conduct the business of selling fireworks and the dates for which the right to do business is desired.

(11) The applicant shall pay one hundred dollars (\$100.00) cleanup deposit per location, which shall be refunded after the fireworks season or used by the city to clean up the retail fireworks site if needed.

(12) The applicant must appear before the planning and zoning committee for approval of a "special exception permit."

(13) After the application has been submitted and approved, the city building and codes inspector shall inspect the site for compliance with applicable codes and ordinances. (Ord. #20-15, Dec. 2020)

**7-503. Permit revocation.** The building and codes inspector and/or fire official may revoke any permit upon failure of the retailer to correct any of the following conditions within thirty-six (36) hours after the codes inspector gives written notice.

(1) When the permittee or the permittee's operator violates any lawful rule, regulation, or order of the city codes director.

(2) When the permittee's application contains any false or untrue statements.



(3) When the permittee fails to timely file any report or pay any tax, fee, fine, or charge.

(4) When the permittee or the permittee's operator violates any fireworks ordinance or statute.

(5) When any activities of the permittee constitute a distinct hazard to life or property, the codes director or fire official, or both, may revoke the permit immediately. (Ord. #20-15, Dec. 2020)

**7-504. Permissible fireworks.** (1) It is unlawful for any individual, firm, partnership, or corporation to sell or use within the City of Greenbrier, except as provided in this chapter, any "fireworks," as defined in § 7-401(1)(a), other than the following:

(a) Those items classified by the U.S. Department of Transportation as 1.4G consumer fireworks; or

(b) Those items that comply with the construction, chemical composition, and labeling regulations promulgated by the United States Consumer Product Safety Commission and permitted for use by the general public under its regulations.

(2) Any display using 1.3G display fireworks must be under the control of a licensed pyrotechnics technician. (Ord. #20-15, Dec. 2020)

**7-505. Storing and structures.** No person may smoke within a structure where fireworks are sold. No person selling fireworks may permit the presence of lighted cigars, cigarettes, or pipes within a structure where fireworks are offered for sale. At all places where fireworks are stored or sold, there must be posted signs with the words "Fireworks-No Smoking" in letters not less than four inches (4") high. An inspected and currently tagged fire extinguisher with a minimum 2A rating and one (1) pressurized water type fire extinguisher must be present at each retail fireworks site. Fireworks sold at retail may be sold only from a freestanding structure. Fireworks must be stored at least ten feet (10') away from windows and other areas where the sun may shine through. Fireworks are not permitted to be stored in residential districts, except for personal use. (Ord. #20-15, Dec. 2020)

**7-506. Limitations on structures.** Tents meeting the current adopted *International Building Code* and the *Life Safety Code* (NFPA 101) may be used for the retail sale of fireworks. Ground fault interrupter protection must be used for power cords that supply power to tents and other outdoor structures. Electrical wiring inside tents and other outdoor locations shall be securely installed, without splices, and lamps shall be protected from accidental breakage by a suitable fixture or guard. No structure from which fireworks are sold may exceed three thousand two hundred (3,200) square feet. Fireworks may not be stored in a permanent building unless the building has a sprinkler system and is constructed of non-flammable materials such as metal or concrete block.

Only three (3) firework stands are permissible in the city limits. (Ord. #20-15, Dec. 2020)

**7-507. Location of fireworks outlets.** Fireworks sales structures must be no closer than sixty feet (60') from any occupied building. Fireworks sales are permissible only on commercial/industrial property as approved by the planning department and the sales structure must be located a minimum of fifty-five feet (55') from the right-of-way. Any fireworks sales structure must be at least one hundred fifty feet (150') from a residence. Fireworks sales are not allowed on any property where there is an existing retail business that is operated from a building in excess of one hundred twenty-five thousand (125,000) square feet. (Ord. #20-15, Dec. 2020)

**7-508. Parking for retail fireworks sales site.** The site for a fireworks retailer shall be improved to provide at least twelve (12) graveled or paved parking places for off-street and right-of-way customer parking. In addition, the retail fireworks site must provide for an on-site turn-around area so that backing of vehicles onto the street will not be necessary. (Ord. #20-15, Dec. 2020)

**7-509. Additional standards for fireworks retailers.** (1) Any site for a fireworks retailer must be located so that all parts of the structure and fireworks inventory on the site are no closer than one hundred feet (100') to any fuel source.

(2) The parcel in which a fireworks retail use is required shall be a minimum of seven hundred fifty feet (750') from other similar uses. This distance shall be measured in a straight line from structure to structure. Priority shall be given to the retailer who obtained a permit the previous year at the same location. (Ord. #20-15, Dec. 2020)

**7-510. Unlawful sale to certain children and other persons; unlawful use of fireworks.** It is unlawful to offer for sale or to sell any fireworks to children under the age of sixteen (16) years of age or to any intoxicated person. It is unlawful to explode or ignite fireworks within six hundred feet (600') of any church, assisted living facility, nursing home, hospital, funeral home, public or private school academic structure, or within two hundred feet (200') of where fireworks are stored, sold, or offered for sale. It is unlawful to ignite or discharge any permissible articles of fireworks within, or throw them from, a motor vehicle. It is unlawful to place or throw any ignited article of fireworks into, or at, a motor vehicle, or at or near any person or group of persons. It is unlawful to ignite fireworks on another person's private property unless permission is obtained from the owner or occupant of the property. It is unlawful to launch fireworks onto property of persons who have not given permission. It is unlawful to use fireworks at times, places, or in any manner that endangers other persons. It is unlawful to ignite fireworks during

a burning ban declared by either the State of Tennessee or the City of Greenbrier Fire Department, except for public (and/or group) displays for which permits have been granted. (Ord. #20-15, Dec. 2020)

**7-511. Limited time period to use fireworks.** It is unlawful to discharge or use fireworks except for the following time periods.

(1) July 1 through July 5: The permissible hours are from 10:00 A.M. to 10:30 P.M. except for July 3 when permissible hours are from 10:00 A.M. to 11:30 P.M.

(2) December 31 and January 1: The permissible hours from 8:00 P.M. on December 31 to 1:00 A.M. on January 1. (Ord. #20-15, Dec. 2020)

**7-512. Exemptions.** Nothing in this chapter prohibits:

(1) The sale of any kind of fireworks that are to be shipped directly out of the corporate limits of the city in accordance with the regulations of the United States Department of Transportation covering the transportation of explosives and other dangerous articles by motor, rail, and water.

(2) The sale, transportation, handling, or use of industrial pyrotechnic devices or fireworks, such as railroad torpedoes, fuses, automotive, aeronautical, and marine flares and smoke signals.

(3) The sale or use of blank cartridges for theater, for signal or ceremonial purposes, in athletics or sporting events, or legal power tools.

(4) The transportation, handling, or use of any pyrotechnic devices by the armed forces of the United States.

(5) The use of pyrotechnics in training by the fire service, law enforcement, or similar government agencies.

(6) The use of fireworks for agricultural purposes under conditions approved by the fire chief, or his designee.

(7) Supervised displays of fireworks as provided for in this chapter. (Ord. #20-15, Dec. 2020)

**7-513. Violations and penalty.** Violations of any provision of this chapter shall be subject to a penalty of up to fifty dollars (\$50.00) per violation. (Ord. #20-15, Dec. 2020)

## TITLE 8

### ALCOHOLIC BEVERAGES<sup>1</sup>

#### CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.
3. WINE IN RETAIL FOOD STORES.

#### CHAPTER 1

### INTOXICATING LIQUORS<sup>2</sup>

#### SECTION

- 8-101. Alcoholic beverages subject to regulation.
- 8-102. Application for certificate.
- 8-103. Applicant to agree to comply with laws.
- 8-104. Applicant to appear before board of mayor and aldermen; duty to give information.
- 8-105. Action on application.
- 8-106. Certificate of compliance.
- 8-107. Applicants for certificate who have criminal record.
- 8-108. Number of retail licenses to be held by retailer.
- 8-109. Where establishments may be located.
- 8-110. Retail stores to be on ground floor; entrances.
- 8-111. Limitation on number of retailers.
- 8-112. Retailer's license.
- 8-113. Display of license.
- 8-114. Transfer of license restricted.
- 8-115. Expiration date of license.
- 8-116. New license after revocation.
- 8-117. Sales for consumption on-premises.
- 8-118. Radios, amusement devices and seating facilities prohibited in retail establishments.

---

<sup>1</sup>Municipal code reference

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

State law reference

*Tennessee Code Annotated*, title 57.

<sup>2</sup>State law reference

Employee and server permits: *Tennessee Code Annotated*, § 57-3-701, *et seq.*

- 8-119. Inspection fee.
- 8-120. Consumption of alcoholic beverages on-premises.
- 8-121. Privilege tax on retail sale of alcoholic beverages for consumption on the premises.
- 8-122. Annual privilege tax to be paid to the recorder.
- 8-123. Concurrent sales of liquor by the drink and beer.
- 8-124. Regulations for purchase and sale of intoxicating liquors.
- 8-125. Regulation of retail sales.
- 8-126. Failure to pay inspection fee.
- 8-127. Mayor to determine if provisions are being complied with.
- 8-128. Advertisement of alcoholic beverages.
- 8-129. Violations and penalty.

**8-101. Alcoholic beverages subject to regulation.** It shall be unlawful to engage in the business of selling, storing, transporting or distributing, or to purchase or possess alcoholic beverages within the corporate limits of this city except as provided by *Tennessee Code Annotated*, title 57.

**8-102. Application for certificate.**<sup>1</sup> (1) Before any person or other legal entity (the "applicant") shall receive a license for the establishment of a retail liquor store, the applicant shall make application for a license for a specific location and be granted such license for such specific location by the board of mayor and aldermen as required by *Tennessee Code Annotated*, § 57-3-208. When the applicant which intends to obtain a liquor license is a legal entity owned, directly or indirectly, by a combination of persons and/or entities, the group of persons owning an interest, directly or indirectly, in the application is referred to herein as the "applicant group." The application for the license shall be filed with the city recorder giving the following information:

- (a) The name, date of birth and street address of each person to have an interest, direct or indirect, in the retail liquor store as an owner, partner, stockholder or otherwise. In the event that a corporation, partnership, limited liability company or other legally recognized entity is an applicant or member of an applicant group, each person with an interest therein must be disclosed and must provide the information herein required by the city;
- (b) The name of the retail liquor store proposed;
- (c) The address of the retail liquor store proposed and it's zoning designation;
- (d) Number of years the applicant and persons in the applicant group have been residents in, or have owned residential or commercial

---

<sup>1</sup>State law reference

*Tennessee Code Annotated*, § 57-3-208.

property within, Greenbrier city limits, zip code, urban growth boundary (minimum of two (2) years required);

(e) The name of the licensee and the address of other retail liquor stores in which an ownership interest is held by the applicant or any member of the applicant group, identifying the applicant or group member holding each interest;

(f) Occupation or business, and name and location of such business, of the applicant and persons in the applicant group and length of time engaged in such occupation or business;

(g) Whether or not the applicant, or any persons in the applicant group, has been convicted, within the ten (10) year period immediately preceding the date of the application, of any violation of any state or federal law or of any violation of any municipal ordinance (with the exception of minor traffic violations such as speeding or traffic signal violations, but not excepting alcohol related violations), and, if so, provide the details of such violation (i.e., charging entity, citation to, and copy of, law convicted of violating, copy of charge, etc.);

(h) If employed, the name and address of the employer;

(i) The name and address of the owner of the real property of the proposed location and the amount to be paid for rent or purchase, together with a letter from such owner affirming either:

(i) That the parties have reached a written agreement on the terms of a lease and setting forth the amount of the rent provided for in the agreement; or

(ii) That the parties have reached a written agreement on the terms of a sale of the premises to the applicant.

(j) The amount of money invested, or to be invested, and the source of funds to be used, and, if borrowed, the name of the person from whom borrowed, the name of the bank with which the applicant does business, and the name of any person who is aiding the venture financially, either by a loan or guaranty;

(k) The name of any person who will have any interest, direct or indirect, in the business of the applicant or in the profits thereof, and the nature and character thereof, and whether the person holds a wholesale or retail liquor license;

(l) The identity of the applicant(s) who will be in actual charge of the day-to-day operation of the business, and a certification that that individual has not been convicted of a felony within a ten (10) year period immediately preceding the date of the application, and if the applicant is a corporation the identity of the officer or employee who will be in actual charge of the day-to-day operations of the business and that such officer or employee has not been convicted of a felony within a ten (10) year period immediately preceding the date of the application;

(m) Proof of citizenship of owner(s) and any person(s) employed by business;

(n) A statement that the persons receiving the requested license to the best of their knowledge if awarded the license could comply with all the requirements for obtaining the required licenses under state law and the provisions of this chapter for the operation of retail liquor stores in the city; and

(o) The agreement of each applicant or each member of an applicant group, as appropriate, to comply with all applicable laws and ordinances and with the rules and regulations of the Tennessee Alcoholic Beverage Commission and the City of Greenbrier with reference to the sale of alcoholic beverages, and the further agreement of each applicant or each member of an applicant group as to the validity and the reasonableness of these regulations, inspection fees, and taxes provided in this title with reference to the sale of alcoholic beverages.

(2) Each application shall be accompanied by a non-refundable investigation fee of seven hundred fifty dollars (\$750.00) and an additional one hundred dollars (\$100.00) for each additional background check.

(3) Further documentation.

(a) The application shall be accompanied by six (6) copies of a site plan drawn to a scale of not less than one inch equals twenty feet (1" = 20') giving the following information:

(i) The shape, size and location of the lot which the retail liquor store is to be operated under the license;

(ii) The shape, size, height and location of all building(s) whether they are to be erected, altered, moved or existing upon the lot; and

(iii) The off-street parking space and off-street loading and unloading space to be provided including the vehicular access to be provided from these areas to a public street.

(b) A written certification by the applicant that the premises of the proposed retail liquor store are in full and complete compliance with the distance requirements of this chapter; and that the applicant has taken steps to verify compliance with the distance requirements. To the extent that the applicant has documentation of such verification, or the process of verification, then the applicant shall submit such documentation with the application.

(c) In the case where the applicant is a partnership, the application shall be accompanied by a copy of the partnership agreement and an indication of who are general partners and who are limited partners, if any, and for each partner the profit sharing percentage in the partnership.

(d) In the case where the applicant is a corporation or limited liability company, the application shall be accompanied by a copy of the

corporate charter or the operating agreement and a list of shareholders/members with their ownership percentage, a list of officers/managers and a list of names and addresses of directors.

(4) Signature. The application shall be signed and verified by each person to have any interest in the retail liquor store either as an owner, partner, stockholder or otherwise.

(5) Misrepresentation-concealment of fact; duty to amend. If any applicant, member of an applicant group, or licensee, either intentionally or innocently, misrepresents or conceals any material fact in any application form or as to any other information required to be disclosed by this chapter, such applicant, member of an applicant group or licensee shall be deemed to have violated the provisions of this chapter and his or her application may be disregarded or his or her license restricted or revoked as deemed appropriate by the board.

In addition, if an application submitted does not contain the information required by this chapter, it will not be deemed filed until all information has been submitted in writing. It shall be the duty of the applicant to determine and submit the information required.

(6) As of this date, two (2) liquor stores have been permitted and established within the city. In issuing the required license for the licensing of additional liquor stores in the city permitted by this chapter, the board will consider all applications filed before a closing date to be fixed by it and select from such applications the persons deemed by it in its sole discretion to have qualifications required by law and the most suitable circumstances and location in consideration of the health, safety and welfare of the citizens of the city for the lawful operation of liquor stores without regard to the order of time in which the applications are filed. Such persons and only such persons so selected shall receive the additional licenses issued by the city. (1997 Code, § 8-112)

**8-103. Applicant to agree to comply with laws**. The applicant for a certificate 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 sale of alcoholic beverages.

**8-104. Applicant 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.

**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 board of mayor and aldermen may issue a certificate of good moral character to any applicant, which shall be signed by the mayor or by a majority of the board of mayor and aldermen.

**8-106. Certificate of compliance.**<sup>1</sup> After the issuance of a state license by the Tennessee Alcoholic Beverage Commission for on-premises consumption, the licensee will provide a copy to the city recorder. A certificate issued under this chapter remains valid unless there is a change of ownership or location. If either of these events occur, a new certificate must be obtained. (modified)

**8-107. Applicants for certificate who have criminal record.** No certificate of good moral character for the manufacture or sale at wholesale or retail of alcoholic beverages, or for the manufacture or vinting of wine, shall be issued to any person, (or if the applicant is a partnership, any partner, or if the applicant is a corporation, any stockholder), who, within ten (10) years preceding the application for such certificate of good moral character, has been convicted of any felony or of any offense under the laws of the state or of the United States prohibiting the sale, possession, transportation, storage or otherwise handling of intoxicating liquors, or who has during such period been engaged in business, alone or with others, in violation of such laws.

**8-108. Number of retail licenses to be held by retailer.**<sup>2</sup> No retail licensee shall, directly or indirectly, hold more than two (2) retail licenses. In no event shall a retail licensee, directly or indirectly, hold more than fifty percent (50%) of the licenses authorized for issuance in such municipality or county.

**8-109. 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. In no event will a certificate be issued to an applicant when the location secured for the retail store is within three hundred feet (300') of any school, residence, church, or other place of public gathering.

**8-110. 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

---

<sup>1</sup>State law reference

*Tennessee Code Annotated*, § 57-3-208.

<sup>2</sup>State law reference

*Tennessee Code Annotated*, § 57-3-406.

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.<sup>1</sup>

**8-111. Limitation on number of retailers.**<sup>2</sup> No more than two (2) retail licenses for the sale of alcoholic beverages shall be issued under this chapter. (modified)

**8-112. Retailer's license.** (1) No retailer's license shall be issued to a person who is a holder of a public office, either appointive or elective, or who is a public employee, either national, state, city or county. It shall be unlawful for any such person to have any interest in such retail business, directly or indirectly, either proprietary or by means of any loan, mortgage, or lien, or to participate in the profits of any such business. The foregoing shall not apply to uncompensated appointees to municipal boards and commissioners where the boards or commissions on which such appointees serve have no duty to vote for, overlook, or in any manner superintend the sale of alcoholic beverages.

(2) No retailer shall be a person who has been convicted of a felony involving moral turpitude, within ten (10) years prior to the time he, or the concern with which he is connected, shall receive a license; provided, however, that this provision shall not apply to any person who has been so convicted, but whose rights of citizenship has been restored or judgment of infamy has been removed by a court of competent jurisdiction; and in the case of any such conviction occurring after a license has been issued and received, the said license shall immediately be revoked, if such convicted felon be an individual licensee, and if not, the partnership, corporation or association with which he is connected shall immediately discharge him.

(3) No license shall under any condition be issued to any person who, within ten (10) years preceding application for such license or permit shall have been convicted of any offense under the laws of the State of Tennessee or of any other state or of the United States prohibiting or regulating the sale, possession, transportation, storing, manufacturing, or otherwise handling intoxicating liquors or who has, during said period, been engaged in business alone or with others, in violation of any of said laws or rules and regulations promulgated pursuant thereto, or as they existed or may exist thereafter.

---

<sup>1</sup>State law reference

*Tennessee Code Annotated*, § 57-3-404(f)

<sup>2</sup>State law reference

*Tennessee Code Annotated*, § 57-3-208(c).

(4) No manufacturer, brewer or wholesaler shall have any interest in the business or building containing licensed premises of any other person having a license hereunder, or in the fixtures of any such person.

(5) It shall be unlawful for any person to have ownership in, or participate, either directly or indirectly, in the profits of any retail business licensed, unless his interest in said business and the nature, extent and character thereof shall appear on the application; or if the interest is acquired after the issuance of a license, unless it shall be fully disclosed to the mayor and approved by him. Where such interest is owned by such person on or before the application for any license, the burden shall be upon such person to see that this section is fully complied with, whether he, himself, signs or prepares the application, or whether the same is prepared by another; or if said interest is acquired after the issuance of the license, the burden of said disclosure of the acquisition of such interest shall be upon the seller and the purchaser.

(6) No person shall own or be employed in the sale of alcoholic beverages except a citizen of the United States.

(7) No retailer, or any employee thereof, engaged in the sale of alcoholic beverages shall be a person under the age of eighteen (18) years, and it shall be unlawful for any 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 on its place of business to engage in the storage, sale or distribution of alcoholic beverages.

(8) No retailer shall employ in the storage, sale or distribution of alcoholic beverages, any person who, within ten (10) years prior to the date of his employment, shall have been convicted of a felony involving moral turpitude, and in case an employee should be so convicted, he shall immediately be discharged; provided, however, that this provision shall not apply to any person who has been so convicted but whose rights of citizenship have been restored, or judgment of infamy has been removed by a court of competent jurisdiction.

(9) The issuance of a license does not vest a property right in the licensee but is a privilege subject to revocation or suspension according to this chapter.

(10) Misrepresentation of a material fact, or concealment of a material fact required to be shown in application for license shall be a violation of this chapter. (1997 Code, § 8-116, modified)

**8-113. Display of license.** Persons granted a license to carry on the business or undertaking contemplated therein shall, before being qualified to do business, display and post, and keep displayed and posted, in the most conspicuous place in their premises, such license. (1997 Code, § 8-117)

**8-114. Transfer of licenses restricted.** The holder of a license may not sell, assign or transfer such license to any other person unless same is approved by a majority of the board of mayor and aldermen and the state commissioner

and said license shall be good and valid only for the calendar year in which the same was issued. Provided, however, that licensees who are serving in the military force of the United States in the time of war may appoint an agent to operate under the license of the licensee during the absence of the licensee. In such instances, the license shall continue to be carried and renewed in the name of the owner. The agent of the licensee shall conform to all the requirements of a licensee. No person who is ineligible to obtain a license shall be eligible to serve as the agent of a licensee under this section. (1997 Code, § 8-118)

**8-115. Expiration date of license.** Licenses issued under this chapter shall expire at the end of each calendar year and, subject to the provisions of this chapter, may be renewed each calendar year. (1997 Code, § 8-119)

**8-116. New license after revocation.** Where a license is revoked, no new license shall be issued to permit the sale of alcoholic beverages on the same premises until after the expiration of one (1) year from the date said revocation becomes final and effective. (1997 Code, § 8-120)

**8-117. Sales for consumption on-premises.** No alcoholic beverages shall be sold for consumption on the premises of a retail seller.

**8-118. Radios, amusement devices and seating facilities prohibited in retail establishments.** No radios, pinball machines, slot machines or other devices which tend to cause persons to congregate in such place shall be permitted in any retail establishment. No seating facilities shall be provided for persons other than employees.

**8-119. Inspection fee.** The City of Greenbrier 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.

**8-120. Consumption of alcoholic beverages on-premises.** *Tennessee Code Annotated*, title 57, chapter 4, inclusive, is hereby adopted so as to be applicable to all sales of alcoholic beverages for on-premises consumption which are regulated by the said code when such sales are conducted within the corporate limits of Greenbrier, Tennessee. It is the intent of the board of mayor and aldermen that the said *Tennessee Code Annotated*, title 57, chapter 4, inclusive, shall be effective in the City of Greenbrier, the same as if said code sections were copied herein verbatim.

**8-121. Privilege tax on retail sale of alcoholic beverages for consumption on the premises.** Pursuant to the authority contained in *Tennessee Code Annotated*, § 57-4-301, there is hereby levied a privilege tax (in

the same amounts levied by *Tennessee Code Annotated*, title 57, chapter 4, section 321) for the City of Greenbrier to be paid annually as provided in the chapter, upon any person, firm, corporation, joint stock company, syndicate, or association engaging in the business of selling at retail in the City of Greenbrier of alcoholic beverages for consumption on the premises where sold.

**8-122. Annual privilege tax to be paid to the recorder.** Any person, firm, corporation, joint stock company, syndicate or association exercising the privilege of selling alcoholic beverages for consumption on the premises in the City of Greenbrier shall remit annually to the recorder the appropriate tax described in § 8-121. Such payments shall be remitted not less than thirty (30) days following the end of each twelve (12) month period from the original date of the license. Upon the transfer of ownership of such business or the discontinuance of such business, said tax shall be filed within thirty (30) days following such event. Any person, firm, corporation, joint stock company, syndicate, or association failing to make payment of the appropriate tax when due shall be subject to the penalty provided by law. (modified)

**8-123. Concurrent sales of liquor by the drink and beer.** Any person, firm, corporation, joint stock company, syndicate, or association which has received a license to sell alcoholic beverages in the City of Greenbrier, pursuant to *Tennessee Code Annotated*, title 57, chapter 4, shall, notwithstanding § 8-211 of the ordinances of the City of Greenbrier, qualify to receive a beer permit from the city upon compliance with all beer permit requirements. (modified)

**8-124. Regulations for purchase and sale of intoxicating liquors.**

(1) It shall be unlawful for any person in this city to buy any alcoholic beverages herein defined from any person who does not hold the appropriate license under this chapter authorizing the sale of said beverages to him.

(2) No retailer shall purchase any alcoholic beverages from anyone other than a licensed wholesaler, nor shall any wholesaler sell any alcoholic beverages to anyone other than a licensed retailer.

(3) No licensee shall sell intoxicating liquors at retail in connection with any other business or in the same store where any other business is carried on. (1997 Code, § 8-123)

**8-125. Regulation of retail sales.** (1) No retailer shall directly or indirectly, operate more than one (1) place of business in this municipality for the sale of alcoholic beverages, and the word "indirectly" shall include and mean any kind of interest in another place of business, by way of stock ownership, loan, partner's interest, or otherwise.

(2) No retailer shall sell, lend or give away any alcoholic beverages to any person who is drunk nor shall any retailer selling alcoholic beverages sell, lend or give away to any person accompanied by a person who is drunk.

(3) No retailer shall sell, lend or give away any alcoholic beverages to a person under twenty-one (21) years of age.

(4) No retail store shall sell, give away, or otherwise dispense alcoholic beverages except between the hours of eight o'clock A.M. (8:00 A.M.) and eleven o'clock P.M. (11:00 P.M.) on Monday through Saturday and between ten o'clock A.M. (10:00 A.M.) and eleven o'clock P.M. (11:00 P.M.) on Sunday.

(5) No retailer shall sell, lend or give away any alcoholic beverages upon Christmas Day, Thanksgiving Day, or Easter.

(6) No retailer of alcoholic beverages shall keep or permit to be kept upon the licensed premises any alcoholic beverages in any unsealed bottles or other unsealed containers.

(7) No retailer as herein defined shall own, store or possess upon the licensed premises any unstamped merchandise required by the laws of Tennessee to have affixed thereto revenue stamps of said state, hereunder fails to account for or pay over to the finance director any inspection fee, or defaults in any of the conditions of his bond, the mayor and/or city recorder shall report the same to the city attorney who shall immediately institute the necessary action for the recovery of any such inspection fee. (1997 Code, § 8-125, modified)

**8-126. Failure to pay inspection fees.** Whenever any of the persons licensed hereunder fails to account for, or pay over to, the city recorder any license fee or inspection fee, the mayor shall report the same to the city attorney who shall immediately institute the necessary action for the recovery of any such license or inspection fee. (1997 Code, § 8-126, modified)

**8-127. Mayor to determine if provisions are being complied with.** The mayor and/or designated agent thereof is authorized to examine the books, papers and records of any dealer for the purpose of determining whether the provisions of this chapter are being complied with. The refusal to permit the examination of any such books, papers, and records, or the investigation and examination of such premises, shall constitute, sufficient reason for the revocation of a license or the refusal to issue a license. (1997 Code, § 8-127)

**8-128. Advertisement of alcoholic beverages.** All advertisement of the availability of liquor for sale by those licensed pursuant to *Tennessee Code Annotated*, title 57, chapter 4, shall be in accordance with the rules and regulations of the Tennessee Alcoholic Beverage Commission.

**8-129. 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 provision of this code. Upon conviction of any person

under this chapter, it shall be mandatory for the city judge to immediately certify the conviction, whether on appeal or not, to the Tennessee Alcoholic Beverage Commission.

## CHAPTER 2

### BEER<sup>1</sup>

#### SECTION

- 8-201. Beer board established.
- 8-202. Meetings of the beer board.
- 8-203. Record of beer board proceedings to be kept.
- 8-204. Requirements for beer board quorum and action.
- 8-205. Powers and duties of the beer board.
- 8-206. "Beer" defined.
- 8-207. Permit required for engaging in beer business.
- 8-208. Privilege tax.
- 8-209. Beer permits shall be restrictive.
- 8-210. Limitation on number of permits.
- 8-211. Interference with public health, safety, and morals prohibited.
- 8-212. Prohibited conduct or activities by beer permit holders, their agents and/or employees.
- 8-213. Curbside sale of beer.
- 8-214. Revocation of beer permits.
- 8-215. Civil penalty in lieu of suspension.
- 8-216. Loss of clerk's certification for sale to minor.
- 8-217. Violations and penalty.

**8-201. Beer board established.** There is hereby established a beer board to be composed of five (5) members. A chairman shall be elected annually by the board from among its members. All members of the beer board shall serve without compensation. Board members shall each serve four (4) year terms, barring their conviction of any crime involving moral turpitude or their being removed from office by a simple majority vote of the board of mayor and aldermen. To qualify for appointment and continued service on the board, one must reside in the city for at least one (1) year prior to appointment and be registered to vote. (1997 Code, § 8-201)

**8-202. Meetings of the beer board.** All meetings of the beer board shall be open to the public. The board shall hold regular meetings in the city hall at such times as it shall prescribe. When there is business to come before the beer board, a special meeting may be called by the chairman; provided he gives

---

<sup>1</sup>State law reference

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



a reasonable notice thereof to each member. The board may adjourn a meeting at any time to another time and place. (1997 Code, § 8-202)

**8-203. Record of beer board proceedings to be kept.** The city recorder, or their designee, shall make a record of the proceedings of all meetings of the beer 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 beer permit issued by the board. (1997 Code, § 8-203)

**8-204. Requirements for beer board quorum and action.** The attendance of at least a majority of the members of the beer board shall be required to constitute a quorum 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, however, a declaration of "pass" or "abstention" shall not be deemed a "nay" vote. (1997 Code, § 8-204)

**8-205. Powers and duties of the beer board.**<sup>1</sup> The beer board shall have the power, and 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. (1997 Code, § 8-205)

**8-206. "Beer" defined.** The term "beer" as used in this chapter shall be the same definition appearing in *Tennessee Code Annotated*, § 57-5-101.

**8-207. Permit required for engaging in beer business.**<sup>2</sup> It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application to, and obtaining a permit from, the beer board. The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to *Tennessee Code Annotated*, § 57-5-101(b), and shall be accompanied by a non-refundable application fee of two hundred fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the City of Greenbrier. Each applicant must be a person of good moral character and must certify that he has read and is familiar with the provisions of this chapter. (1997 Code, § 8-207)

---

<sup>1</sup>State law reference

*Tennessee Code Annotated*, § 57-5-106

<sup>2</sup>State law reference

*Tennessee Code Annotated* § 57-5-103

**8-208. Privilege tax.**<sup>1</sup> There is hereby imposed on the business of selling, distributing, storing or manufacturing beer a privilege tax of one hundred dollars (\$100.00). Any person, firm, corporation, joint-stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax on January 1 to the City of Greenbrier, 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. (1997 Code, § 8-208)

**8-209. Beer permits shall be restrictive.**<sup>2</sup> All beer permits shall be restrictive as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. Beer permits for retail sale of beer may be further restricted by the beer board so as to authorize sales only for off-premises consumption. A single permit may be issued for on-premises and off-premises consumption. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit. It shall likewise be unlawful for him not to comply with any and all express restrictions or conditions which may be written into his permit by the beer board.

(1) "On-premises" permit. No on-premises permits will be issued authorizing the storage, sale, or manufacturing of beer unless the permittee meets the following qualifications defining a restaurant: a restaurant shall mean any public place kept, used, maintained, advertised and held out to the public as a place where meals are served and where meals are actually and regularly served, without sleeping accommodations, each place being provided with adequate and sanitary kitchen and dining room equipment and seating

---

<sup>1</sup>State law reference

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

<sup>2</sup>State law reference

*Tennessee Code Annotated*, § 57-5-301(a) provides that neither beer permit holders nor persons employed by them may have been "convicted of any violation of the laws against possession, sale, manufacture and transportation of intoxicating liquor or any crime involving moral turpitude" within the previous ten (10) years. Under *Tennessee Code Annotated*, § 57-5-301(b), violations are punishable under state law as a Class A misdemeanor. Under *Tennessee Code Annotated*, § 16-18-302, city courts may only enforce local ordinances that mirror, substantially duplicate or incorporate by reference Class C misdemeanors. City courts are thus prohibited from enforcing ordinances making violations of *Tennessee Code Annotated*, § 57-5-301(a) a local offense.

capacity of at least seventy-five (75) people at tables, having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests. At least one (1) meal per day shall be served at least five (5) days a week, with the exception of holidays, vacations, and periods of redecorating, and the serving of such meals shall be the principal business conducted; further, to qualify as a "restaurant" hereunder, receipts from the sale of food shall be at least sixty percent (60%) of the total gross receipts in any consecutive month period for the business establishment.

(2) "Off-premises" permit. No off-premises type permit will be issued authorizing the storage, sale or manufacturing of beer within one hundred feet (100') of any school (public or private) or church as measured on a straight line from the nearest point of the school or church to the nearest point of the building or structure where beer is stored, sold or manufactured, excepting that this provision shall not be applicable to the renewal of any existing permit. (1997 Code, § 8-209)

**8-210. Limitation on number of permits**. The number of licenses for the sale of beer shall be limited to \_\_\_\_\_. Provided that all requirements of this chapter are complied with, all existing permits for the sale of beer within the corporate limits of the city at the date of the passage of this chapter shall continue to be renewed. A new permit may be issued to a qualified purchaser of an existing establishment in which a permit is now held for the sale of beer, and the permit used only within the establishment or building purchased.

**8-211. Interference with public health, safety, and morals prohibited**. No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with schools, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. In no event will a permit be issued authorizing the manufacture or storage of beer, or the sale of beer within one hundred feet (100') of any hospital, school, church or other place of public gathering. The distances shall be measured in a straight line from the nearest point on the property line upon which sits the building from which the beer will be manufactured, stored or sold to the nearest point on the property line of the hospital, school, church or other place of public gathering. No permit shall be suspended, revoked or denied on the basis of proximity of the establishment to a school, church, or other place of public gathering if a valid permit had been issued to any business on that same location as of January 1, 2003, unless beer is not sold, distributed or manufactured at that location during any continuous six (6) month period after January 1, 2003. (1997 Code, § 8-210)

**8-212. Prohibited conduct or activities by beer permit holders, their agents, and/or employees.** It shall be unlawful for beer permit holders, their agents and/or employee(s) to:

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

(2) Allow any person under twenty one (21) years of age to loiter in, or around, or otherwise frequent any place where beer is sold at retail for consumption on the premises. This section does not prohibit the otherwise lawful patronage by minors of establishments whose primary activity is lawful activity other than the sale of beer or alcohol. "Primary activity," for purposes of this section, means that at least seventy-five percent (75%) of the gross receipts of the establishment are the result of activity other than the sale of beer or alcohol. The beer permit holder shall furnish such documentation as may be required to the city to establish this percentage.

Beer permit holders whose primary activity, as defined above, is lawful activity, other than the sale of beer or alcohol, may employ minors under eighteen (18) years of age. However, persons under eighteen (18) years of age who work in beer places shall not be allowed to touch, handle or move any glass, mug, can, bottle, package, carton, case, keg or other container in which beer is served, held or kept in storage. Persons under eighteen (18) years of age may work in beer places only between the hours of 6:00 A.M. and 10:00 P.M.

A violation of this subsection (2) is unlawful. In addition, a violation of this subsection (2) shall subject the beer permit holder to the penalties and procedures set forth in this chapter.

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

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

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

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

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

(8) Allow pool or billiard playing in the same room where beer is sold and/or consumed.

(9) Allow gambling on his premises.

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

(11) Allow beer to be distributed through sale or otherwise, from any vending apparatus or machine.

(12) Allow any loud, unusual, or obnoxious noises to emanate from his premises. (1997 Code, § 8-212, modified)

**8-213. Curbside sale of beer.** Pursuant to *Tennessee Code Annotated*, § 57-5-103, the authorization of beer permit holders to sell beer online for curbside pickup at the permit holder's location requires purchased beer to be delivered to the customer's vehicle and the vehicle to be located within a paved parking area adjacent to the place of business. Beer sold through an online curbside pickup service shall be required to be pulled from the inventory located at the permitted location of the retailer providing the service. Any employee bringing beer to a vehicle for online curbside pickup must confirm the individual receiving the beer is at least twenty-one (21) years of age.

**8-214. Revocation of beer permits.** (1) The beer board shall have the power to revoke any beer permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his application, or of violating any of the provisions of this chapter. However, no beer permit shall be revoked until a public hearing is held by the board after reasonable notice to all the known parties in interest. Revocation proceedings may be initiated by the police chief or by any member of the beer board.

(2) In the event a permit holder is a "responsible vendor," as defined in *Tennessee Code Annotated*, § 57-5-603, the beer board shall not revoke or suspend said responsible vendor's permit.

(3) Permanent revocation of beer permits shall be issued when the permit holder has at least two (2) violations within a twelve (12) month time period. (1997 Code, § 8-213)

**8-215. Civil penalty in lieu of revocation or suspension.**

(1) Definition. "Responsible vendor" means a person, corporation or other entity that has been issued a permit to sell beer for off-premises consumption and has received certification by the Tennessee Alcoholic Beverage Commission under the "Tennessee Responsible Vendor Act of 2006," *Tennessee Code Annotated*, § 57-5-601, *et seq.*

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

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

---

<sup>1</sup>State law reference

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

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

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

**8-216. Loss of clerk's certification for sale to minor.**<sup>1</sup> If the beer board determines that a clerk of an off-premises beer permit holder certified under *Tennessee Code Annotated*, § 57-5-606, sold beer to a minor, the beer board shall report the name of the clerk to the alcoholic beverage commission within fifteen (15) days of determination of the sale. The certification of the clerk shall be invalid and the clerk may not reapply for a new certificate for a period of one (1) year from the date of the beer board's determination.

**8-217. Violations and penalty.** Except as provided in § 8-215, any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty clause of this code. Each day a violation shall be allowed to continue shall constitute a separate offense.

---

<sup>1</sup>State law reference

*Tennessee Code Annotated*, § 57-5-607.

## CHAPTER 3

### WINE IN RETAIL FOOD STORES

#### SECTION

8-301. Inspection fee on retail food store wine licensees.

8-302. Application for certificate.

**8-301. Inspection fee on retail food store wine licensees.** Pursuant to the authority contained in *Tennessee Code Annotated*, § 57-3-501 *et seq.*, there is hereby imposed an inspection fee on retail food store wine licensees. The inspection fee shall be five percent (5%) of the wholesale price of alcoholic beverages as defined in *Tennessee Code Annotated*, § 57-3-101(a)(1)(A) supplied by a wholesaler to a retail food store wine licensee.

**8-302. Application for certificate.** Before any certificate, as required by *Tennessee Code Annotated*, § 57-3-806, shall be signed by the mayor, or by any aldermen, a request in writing shall be filed with the recorder giving the following information:

- (1) Name, age and address of the applicant.
  - (2) Number of years residence at applicant's address.
  - (3) Whether or not the applicant has been convicted of a felony in the past ten (10) years.
  - (4) The location of the proposed store for the sale of alcoholic beverages.
  - (5) The name and address of the owner of the store.
  - (6) If the applicant is a partnership, the name, age and address of each partner. If the applicant is a corporation, the name, age and address of the executive officers, or those who will be in control of the package store.
- 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.

## TITLE 9

### BUSINESS, PEDDLERS, SOLICITORS, ETC.

#### CHAPTER

1. PEDDLERS, SOLICITORS, ETC.
2. YARD SALES.
3. CABLE TELEVISION.
4. ADULT-ORIENTED BUSINESS ESTABLISHMENTS.

#### CHAPTER 1

### PEDDLERS, SOLICITORS, ETC.<sup>1</sup>

#### SECTION

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

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

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

(2) "Solicitor" means any person, firm or corporation who goes from dwelling to dwelling, business to business, place to place, or from street to street, taking or attempting to take orders for any goods, wares or merchandise, or personal property of any nature whatever for future delivery, except that the

---

<sup>1</sup>Municipal code references

Privilege taxes: title 5.

Trespass by peddlers, etc.: § 11-501.



term shall not include solicitors for charitable and religious purposes and solicitors for subscriptions as those terms are defined below.

(3) "Solicitor for charitable or religious purposes" means any person, firm, corporation or organization who or which solicits contributions from the public, either on the streets of the city or from door to door, business to business, place to place, or from street to street, for any charitable or religious organization. No organization shall qualify as a "charitable" or "religious" organization unless the organization meets one of the following conditions:

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

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

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

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

(5) "Transient vendor<sup>1</sup>" means any person who brings into temporary premises and exhibits stocks of merchandise to the public for the purpose of selling or offering to sell the merchandise to the public. Transient vendor does not include any person selling goods by sample, brochure, or sales catalog for future delivery; or to sales resulting from the prior invitation to the seller by the owner or occupant of a residence. For purposes of this definition, "merchandise" means any consumer item that is or is represented to be new or not previously owned by a consumer, and "temporary premises" means any public or quasi-public place including a hotel, rooming house, storeroom, building or part of a building, tent, vacant lot, railroad car, or motor vehicle which is temporarily occupied for the purpose of exhibiting stocks of merchandise to the public.

---

<sup>1</sup>State law references

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

The definition of "transient vendors" is taken from *Tennessee Code Annotated*, § 62-30-101(3). Note also that *Tennessee Code Annotated*, § 67-4-710(a)(2) prescribes that transient vendors shall pay a tax of \$50.00 in each county and/or municipality in which such vendors sell or offer to sell merchandise for which they are issued a business license, but that they are not liable for the gross receipts portion of the tax provided for in *Tennessee Code Annotated*, § 67-4-709.

Premises are not temporary if the same person has conducted business at those premises for more than six (6) consecutive months or has occupied the premises as his or her permanent residence for more than six (6) consecutive months.

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

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

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

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

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

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

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

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

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

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

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

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

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

- (1) Be permitted to set up and operate a booth or stand on any street or sidewalk, or in any other public area within the city.
- (2) Stand or sit in or near the entrance to any dwelling or place of business, or in any other place which may disrupt or impede pedestrian or vehicular traffic.
- (3) Offer to sell goods or services or solicit in vehicular traffic lanes, or operate a "road block" of any kind.
- (4) Call attention to his business or merchandise or to his solicitation efforts by crying out, by blowing a horn, by ringing a bell, or creating other noise.
- (5) Enter in or upon any premises or attempt to enter in or upon any premises wherein a sign or placard bearing the notice "Peddlers or Solicitors Prohibited," or similar language carrying the same meaning, is located.

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

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

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

- (a) Any false statement, material omission, or untrue or misleading information which is contained in or left out of the application; or
- (b) Any violation of this chapter.

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

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

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

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

## CHAPTER 2

### YARD SALES

#### SECTION

- 9-201. Definitions.
- 9-202. Property permitted to be sold.
- 9-203. Permit required.
- 9-204. Permit procedure.
- 9-205. Permit conditions.
- 9-206. Hours of operation.
- 9-207. Exceptions.
- 9-208. Display of sale property.
- 9-209. Display of permit.
- 9-210. Persons exempted from chapter.
- 9-211. Violations and penalty.

**9-201. Definitions.** For the purpose of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein.

(1) "Personal property" shall mean property which is owned, utilized and maintained by an individual or members of his or her residence and acquired in the normal course of living in or maintaining a residence. It does not include merchandise which was purchased for resale or obtained on consignment.

(2) "Yard sales" shall mean and include all general sales, open to the public, conducted from or on any premises in any residential or nonresidential zone, as defined by the zoning ordinance<sup>1</sup>, for the purpose of disposing of personal property including, but not limited to, all sales entitled "garage," "lawn," "yard," "attic," "porch," "room," "backyard," "patio," "flea market," or "rummage" sale. This definition does not include the operation of such businesses carried on in a nonresidential zone where the person conducting the sale does so on a regular day-to-day basis. This definition shall not include a situation where no more than five (5) specific items or articles are held out for sale and all advertisements of such sale specifically names those items to be sold.

**9-202. Property permitted to be sold.** It shall be unlawful for any person to sell or offer for sale, under authority granted by this chapter, property other than personal property.

---

<sup>1</sup>Municipal code reference

Zoning ordinance: title 14, chapter 2.

**9-203. Permit required.** No yard sale shall be conducted unless and until the individuals desiring to conduct such sale obtains a permit therefor from the recorder. Members of more than one (1) residence may join in obtaining a permit for a yard sale to be conducted at the residence of one of them. Permits may be obtained for any nonresidential location.

**9-204. Permit procedure.** (1) Application. The applicant or applicants for a yard sale permit shall file a written application with the recorder at least three (3) days in advance of the proposed sale setting forth the following information:

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

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

(3) Issuance of permit. Upon the applicant complying with the terms of this chapter, the recorder shall issue a permit.

**9-205. Permit conditions.** The permit shall set forth and restrict the time and location of such yard sale. No more than three (3) such permits may be issued to one (1) residential location, residence and/or family household during any calendar year. If members of more than one (1) residence join in requesting a permit, then such permit shall be considered as having been issued for each and all of such residences. No more than six (6) permits may be issued for any nonresidential location during any calendar year.

**9-206. Hours of operation.** Yard sales shall be limited in time to no more than 9:00 A.M. to 6:00 P.M. on three (3) consecutive days or on two (2) consecutive weekends (Saturday and Sunday).

**9-207. Exceptions.** (1) If sale not held because of inclement weather. If a yard sale is not held on the dates for which the permit is issued or is terminated during the first day of the sale because of inclement weather conditions, and an affidavit by the permit holder to this effect is submitted, the recorder shall issue another permit to the applicant for a yard sale to be conducted at the same location within thirty (30) days from the date when the first sale was to be held. No additional permit fee is required.

(2) Fourth sale permitted. A fourth yard sale shall be permitted in a calendar year if satisfactory proof of a bona fide change in ownership of the real property is first presented to the recorder.

**9-208. Display of sale property.** Personal property offered for sale may be displayed within the residence, in a garage, carport, and/or in a front, side or rear yard, but only in such areas. No personal property offered for sale at a yard sale shall be displayed in any public right-of-way. A vehicle offered for sale may be displayed on a permanently constructed driveway within such front or side yard.

**9-209. Display of permit.** Any permit in possession of the holder or holders of a yard sale shall be posted on the premises in a conspicuous place so as to be seen by the public, or any city official.

**9-210. Persons exempted from chapter.** The provisions of this chapter shall not apply to or affect the following:

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

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

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

**9-211. Violations and penalty.** Any person found guilty of violating the terms of this chapter shall be subject to a penalty under the general penalty provision of this code.

## CHAPTER 3

### CABLE TELEVISION

#### SECTION

9-301. To be furnished under franchise.

**9-301. To be furnished under franchise.** Cable television service shall be furnished to the City of Greenbrier and its inhabitants under franchise as the governing body shall grant. The rights, powers, duties and obligations of the City of Greenbrier and its inhabitants and the grantee of the franchise shall be clearly stated in the franchise agreement, which shall be binding upon the parties concerned.<sup>1</sup>

---

<sup>1</sup>For complete details relating to the cable television franchise agreement, see Ord. #21-06 dated April 5, 2021 in the office of the city recorder.



## CHAPTER 4

### ADULT-ORIENTED ESTABLISHMENTS<sup>1</sup>

#### SECTION

- 9-401. Purpose.
- 9-402. Definitions.
- 9-403. License required.
- 9-404. Application for license.
- 9-405. Standards for issuance of license.
- 9-406. Permit required.
- 9-407. Application for permit.
- 9-408. Standards for issuance of permit.
- 9-409. Fees.
- 9-410. Display of license or permit.
- 9-411. Renewal of license or permit.
- 9-412. Revocation of license or permit.
- 9-413. Hours of operation.
- 9-414. Responsibilities of the operator.
- 9-415. Prohibitions and unlawful sexual acts.
- 9-416. Violations and penalty.

**9-401. Purpose.** It is the purpose of this chapter to regulate sexually oriented businesses in order to promote the health, safety, morals, and general welfare of the citizens of the city, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the city. It is not the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually-oriented entertainment to their intended market.

**9-402. Definitions.** For the purpose of this chapter, the words and phrases used herein shall have the following meanings, unless otherwise clearly indicated by the context:

- (1) "Adult-oriented establishment" shall include, but not be limited to, "adult bookstore," "adult motion picture theaters," "adult mini-motion picture establishments," or "adult cabaret," and further means any premises to which the public patrons or members (regardless of whether or not the establishment is categorized as a private or members only club) are invited or admitted and/or

---

<sup>1</sup>State law references

*Tennessee Code Annotated*, §§ 7-51-1101–7-51-1122 and 7-51-1401– 7-51-1407.

which are so physically arranged as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises for the purpose of viewing adult-oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, when such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect. An "adult-oriented establishment" further includes, without being limited to, any "adult entertainment studio" or any premises that is physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio or any other term of like import.

(2) "Adult bookstore" means an establishment having as a substantial portion of its stock in trade ("substantial portion" meaning over twenty percent (20%) of floor area, or over twenty percent (20%) of inventory by units or value, or over twenty percent (20%) of revenues, or an inventory of two hundred (200) or more units) in books, films, video cassettes, compact discs, computer software, computer generated images or text, or magazines and other periodicals or publications or reproductions of any kind which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined below, and in conjunction therewith have facilities for the presentation of adult entertainment, as defined below, and including adult-oriented films, movies, or live entertainment, for observation by patrons therein.

(3) "Adult motion picture theater" means an enclosed building with a capacity of fifty (50) or more persons regularly used for presenting materials having as a dominant theme or 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 any means by patrons therein.

(4) "Adult mini-motion picture theater" means an enclosed building with a capacity of less than fifty (50) persons regularly 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 any means by patrons therein.

(5) "Adult cabaret" is defined to mean an establishment which features as a principle use of its business, entertainers and/or waiters and/or bartenders and/or any other employee or independent contractor, who expose to public view of the patrons within said establishment, at any time, the bare female breast below a point immediately above the top of the areola, human genitals, pubic region, or buttocks, even if partially covered by opaque material or completely covered by translucent material; including swim suits, lingerie or latex covering.

Adult cabarets shall include commercial establishments which feature entertainment of an erotic nature including exotic dancers, table dancers, private dancers, strippers, male or female impersonators, or similar entertainers.

(6) "Board of Mayor and Aldermen" means the Board of Mayor and Aldermen of the City of Greenbrier, Tennessee.

(7) "Employee" means any and all persons, including independent contractors, who work in or at or render any services directly related to the operation of an adult-oriented establishment.

(8) "Entertainer" means any person who provides entertainment within an adult-oriented establishment as defined in this section, whether or not a fee is charged or accepted for entertainment and whether or not entertainment is provided as an employee or an independent contractor.

(9) "Adult-entertainment" means any exhibition of any adult-oriented: motion pictures, live performance, computer or CD Rom generated images, displays of adult-oriented images or performances derived or taken from the internet, displays or dance of any type, which has a substantial portion of such performance any actual or simulated performance of specified sexual activities or exhibition and viewing of specified anatomical areas, removal or partial removal of articles of clothing or appearing unclothed, pantomime, modeling, or any other personal service offered customers.

(10) "Operator" means any person, partnership, corporation, or entity of any type or character operating, conducting or maintaining an adult-oriented establishment.

(11) "Specified sexual activities" means:

(a) Human genitals in a state of actual or simulated sexual stimulation or arousal;

(b) Acts or simulated acts of human masturbation, sexual intercourse or sodomy;

(c) Fondling or erotic touching of human genitals, pubic region, buttock or female breasts.

(12) "Specified anatomical areas" means:

(a) Less than completely and opaquely covered:

(i) Human genitals, pubic region;

(ii) Buttocks;

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

(b) Human male genitals in an actual or simulated discernibly turgid state, even if completely opaquely covered.

**9-403. License required.** (1) Except as provided in subsection (5) below, from and after the effective date of this chapter, no adult-oriented establishment shall be operated or maintained in the City of Greenbrier without first obtaining a license to operate issued by the City of Greenbrier.

(2) A license may be issued only for one (1) adult-oriented establishment located at a fixed and certain place. Any person, partnership, or corporation which desires to operate more than one (1) adult-oriented establishment must have a license for them.

(3) No license or interest in a license may be transferred to any person, partnership, or corporation.

(4) It shall be unlawful for any entertainer, employee or operator to knowingly work in or about, or to knowingly perform any service directly related to the operation of any unlicensed adult-oriented establishment.

(5) All existing adult-oriented establishments at the time of the passage of this chapter must submit an application for a license within one hundred twenty (120) days of the passage of this chapter on second and final reading. If a license is not issued within said one hundred twenty (120) day period, then such existing adult-oriented establishment shall cease operations.

(6) No license may be issued for any location unless the premises is lawfully zoned for adult-oriented establishments and unless all requirements of the zoning ordinance are complied with.

**9-404. Application for license.** (1) Any person, partnership, or corporation desiring to secure a license shall make application to the Police Chief of the City of Greenbrier. The application shall be filed in triplicate with and dated by the police chief. A copy of the application shall be distributed promptly by the police chief to the recorder and to the applicant.

(2) The application for a license shall be upon a form provided by the police chief. An applicant for a license including any partner or limited partner of the partnership applicant, and any officer or director of the corporate applicant and any stockholder holding more than five percent (5%) of the stock of a corporate applicant, or any other person who is interested directly in the ownership or operation of the business (including but not limited to all holders of any interest in land of members of any limited liability company) shall furnish the following information under oath:

(a) Name and addresses, including all aliases.

(b) Written proof that the individual(s) is at least eighteen (18) years of age.

(c) All residential addresses of the applicant(s) for the past three (3) years.

(d) The applicants' height, weight, color of eyes and hair.

(e) The business, occupation or employment of the applicant(s) for five (5) years immediately preceding the date of the application.

(f) Whether the applicant(s) previously operated in this or any other county, city or state under an adult-oriented establishment license or similar business license; whether the applicant(s) has ever had such a license revoked or suspended, the reason therefore, and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation.

(g) All criminal statutes, whether federal or state, or city ordinance violation convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations.

(h) Fingerprints and two (2) portrait photographs at least two inches by two inches (2" x 2") of each applicant.

(i) The address of the adult-oriented establishment to be operated by the applicant(s).

(j) The names and addresses of all persons, partnerships, limited liability entities, or corporations holding any beneficial interest in the real estate upon which such adult-oriented establishment is to be operated, including but not limited to, contract purchasers or sellers, beneficiaries of land trust or lessees subletting to applicant.

(k) If the premises are leased or being purchased under contract, a copy of such lease or contract shall accompany the application.

(l) The length of time each applicant has been a resident of the City of Greenbrier, or its environs, immediately preceding the date of the application.

(m) If the applicant is a limited liability entity, the applicant shall specify the name, the date and state of organization, the name and address of the registered agent and the name and address of each member of the limited liability entity.

(n) A statement by the applicant that he or she is familiar with the provisions of this chapter and is in compliance with them.

(o) All inventory, equipment, or supplies which are to be leased, purchased, held in consignment or in any other fashion kept on the premises or any part or portion thereof for storage, display, any other use therein, or in connection with the operation of said establishment, or for resale, shall be identified in writing accompanying the application specifically designating the distributor business name, address phone number, and representative's name.

(p) Evidence in form deemed sufficient to the city manager that the location for the proposed adult-oriented establishment complies with all requirements of the zoning ordinances as now existing or hereafter amended.

(3) Within ten (10) days of receiving the results of the investigation conducted by the Greenbrier Police Department, the police chief shall notify the applicant that his/her application is conditionally granted, denied or held for further investigation. Such additional investigation shall not exceed thirty (30) days unless otherwise agreed to by the applicant. Upon conclusion of such additional investigation, the police chief shall advise the applicant in writing whether the application is granted or denied. All licenses shall be further held pending consideration of the required special use zoning permit by the board of mayor and aldermen.

(4) Whenever an application is denied or held for further investigation, the police chief shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held thereafter before the board

of mayor and aldermen at which time the applicant may present evidence as to why his/her license should not be denied. The board shall hear evidence as to the basis of the denial and shall affirm or reject the denial of any application at the hearing. If any application for an adult-oriented establishment license is denied by the board of mayor and aldermen and no agreement is reached with the applicant concerning the basis for denial, the city attorney shall institute suit for declaratory judgment in the Chancery Court of Robertson County, Tennessee, within five (5) days of the date of any such denial and shall seek an immediate judicial determination of whether such license or permit may be properly denied under the law.

(5) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this chapter, shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial thereof by the police chief.

**9-405. Standards for issuance of license.** (1) To receive a license to operate an adult-oriented establishment, an applicant must meet the following standards:

- (a) If the applicant is an individual:
  - (i) The applicant shall be at least eighteen (18) years of age.
  - (ii) The applicant shall not have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity, or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.
  - (iii) The applicant shall not have been found to have previously violated this chapter within five (5) years immediately preceding the date of the application.
- (b) If the applicant is a corporation:
  - (i) All officers, directors and stockholders required to be named under § 9-403 shall be at least eighteen (18) years of age.
  - (ii) No officer, director or stockholder required to be named under § 9-403 shall have been found to have previously violated this chapter within five (5) years immediately preceding the date of application.
- (c) If the applicant is a partnership, joint venture, limited liability entity, or any other type of organization where two (2) or more persons have a financial interest:

(i) All persons having a financial interest in the partnership, joint venture or other type of organization shall be at least eighteen (18) years of age.

(ii) No persons having a financial interest in the partnership, joint venture or other type of organization shall have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.

(iii) No persons having a financial interest in the partnership, joint venture or other type of organization shall have been found to have previously violated this chapter within five (5) years immediately preceding the date of the application.

(2) No license shall be issued unless the Greenbrier Police Department has investigated the applicant's qualifications to be licensed. The results of that investigation shall be filed in writing with the police chief no later than twenty (20) days after the date of the application.

**9-406. Permit required.** In addition to the license requirements previously set forth for owners and operators of "adult-oriented establishments," no person shall be an employee or entertainer in an adult-oriented establishment without first obtaining a valid permit issued by the police chief.

**9-407. Application for permit.** (1) Any person desiring to secure an permit as an employee or entertainer shall make application to the police chief. The application shall be filed in triplicate with and dated by the police chief. A copy of the application shall be distributed promptly by the police chief to the city recorder and to the applicant.

(2) The application for a permit shall be upon a form provided by the police chief. An applicant for a permit shall furnish the following information under oath:

(a) Name and address, including all aliases.

(b) Written proof that the individual is at least eighteen (18) years of age.

(c) All residential addresses of the applicant for the past three (3) years.

(d) The applicant's height, weight, color of eyes, and hair.

(e) The business, occupation or employment of the applicant for five (5) years immediately preceding the date of the application.

(f) Whether the applicant, while previously operating in this or any other city or state under an adult-oriented establishment permit or similar business for whom applicant was employed or associated at the time, has ever had such a permit revoked or suspended, the reason

therefor, and the business entity or trade name for whom the applicant was employed or associated at the time of such suspension or revocation.

(g) All criminal statutes, whether federal, state or city ordinance violation, convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations.

(h) Fingerprints and two (2) portrait photographs at least two inches by two inches (2" x 2") of the applicant.

(i) The length of time the applicant has been a resident of the City of Greenbrier, or its environs, immediately preceding the date of the application.

(j) A statement by the applicant that he or she is familiar with the provisions of this chapter and is in compliance with them.

(3) Within ten (10) days of receiving the results of the investigation conducted by the Greenbrier Police Department, the police chief shall notify the applicant that his application is granted, denied, or held for further investigation. Such additional investigation shall not exceed an additional thirty (30) days unless otherwise agreed to by the applicant. Upon the conclusion of such additional investigations, the police chief shall advise the applicant in writing whether the application is granted or denied.

(4) Whenever an application is denied or held for further investigation, the police chief shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held thereafter before the board of mayor and aldermen at which time the applicant may present evidence bearing upon the question.

(5) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this chapter, shall constitute an admission by the applicant that he or she is ineligible for such permit and shall be grounds for denial thereof by the police chief.

**9-408. Standards for issuance of permit.** (1) To receive a permit as an employee or entertainer, an applicant must meet the following standards:

(a) The applicant shall be at least eighteen (18) years of age.

(b) The applicant shall not have been convicted of or pleaded no contest to a felony or any crime involving moral turpitude or prostitution, obscenity or other crime of a sexual nature (including violation of similar adult-oriented establishment laws or ordinances) in any jurisdiction within five (5) years immediately preceding the date of the application.

(c) The applicant shall not have been found to violate any provision of this chapter within five (5) years immediately preceding the date of the application.



(2) No permit shall be issued until the Greenbrier Police Department has investigated the applicant's qualifications to receive a permit. The results of that investigation shall be filed in writing with the police chief not later than twenty (20) days after the date of the application.

**9-409. Fees.** (1) A license fee of five hundred dollars (\$500.00) shall be submitted with the application for a license. If the application is denied, one-half (1/2) of the fee shall be returned.

(2) A permit fee of one hundred dollars (\$100.00) shall be submitted with the application for a permit. If the application is denied, one-half (1/2) of the fee shall be returned.

**9-410. Display of license or permit.** (1) The license shall be displayed in a conspicuous public place in the adult-oriented establishment.

(2) The permit shall be carried by an employee and/or entertainer upon his or her person and shall be displayed upon request of a customer, any member of the Greenbrier Police Department, or any person designated by the board of mayor and aldermen.

**9-411. Renewal of license or permit.** (1) Every license issued pursuant to this chapter will terminate at the expiration of one (1) year from the date of issuance, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the police chief. The application for renewal must be filed not later than sixty (60) days before the license expires. The application for renewal shall be filed in triplicate with and dated by the police chief. A copy of the application for renewal shall be distributed promptly by the police chief to the city recorder and to the operator. The application for renewal shall be a form provided by the police chief and shall contain such information and data, given under oath or affirmation, as may be required by the board of mayor and aldermen.

(2) A license renewal fee of five hundred dollars (\$500.00) shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of one hundred dollars (\$100.00) shall be assessed against the applicant who files for a renewal less than sixty (60) days before the license expires. If the application is denied, one-half (1/2) of the total fees collected shall be returned.

(3) If the Greenbrier Police Department is aware of any information bearing on the operator's qualifications, that information shall be filed in writing with the police chief.

(4) Every permit issued pursuant to this chapter will terminate at the expiration of one (1) year from the date of issuance unless sooner revoked, and must be renewed before an employee and/or entertainer is allowed to continue employment in an adult-oriented establishment in the following calendar year. Any employee and/or entertainer desiring to renew a permit shall make

application to the police chief. The application for renewal must be filed not later than sixty (60) days before the permit expires. The application for renewal shall be filed in triplicate with and dated by the police chief. A copy of the application for renewal shall be distributed promptly by the police chief to the city recorder and to the employee. The application for renewal shall be upon a form provided by the police chief and shall contain such information and data, given under oath or affirmation, as may be required by the board of mayor and aldermen.

(5) A permit renewal fee of one hundred dollars (\$100.00) shall be submitted with the application for renewal. In addition to said renewal fee, a late penalty of fifty dollars (\$50.00) shall be assessed against the applicant who files for renewal less than sixty (60) days before the license expires. If the application is denied one-half (1/2) of the fee shall be returned.

(6) If the Greenbrier Police Department is aware of any information bearing on the employee's qualifications, that information shall be filed in writing with the police chief.

**9-412. Revocation of license or permit.** (1) The police chief shall revoke a license or permit for any of the following reasons:

(a) Discovery that false or misleading information or data was given on any application or material facts were omitted from any application.

(b) The operator, entertainer, or any employee of the operator, violates any provision of this chapter or any rule or regulation adopted by the board of mayor and aldermen pursuant to this chapter; provided, however, that in the case of a first offense by an operator where the conduct was solely that of an employee, the penalty shall not exceed a suspension of thirty (30) days if the board of mayor and aldermen shall find that the operator had no actual or constructive knowledge of such violation and could not by the exercise of due diligence have had such actual or constructive knowledge.

(c) The operator or employee becomes ineligible to obtain a license or permit.

(d) Any cost or fee required to be paid by this chapter is not paid.

(e) An operator employs an employee who does not have a permit or provide space on the premises, whether by lease or otherwise, to an independent contractor who performs or works as an entertainer without a permit.

(f) Any intoxicating liquor, cereal malt beverage, narcotic or controlled substance is allowed to be sold or consumed on the licensed premises.

(g) Any operator, employee or entertainer sells, furnishes, gives or displays, or causes to be sold, furnished, given or displayed to any minor any adult-oriented entertainment or adult-oriented material.

(h) Any operator, employee or entertainer denies access of law enforcement personnel to any portion of the licensed premises wherein adult-oriented entertainment is permitted or to any portion of the licensed premises wherein adult-oriented material is displayed or sold.

(i) Any operator allows continuing violations of the rules and regulations of the Robertson County Health Department.

(j) Any operator fails to maintain the licensed premises in a clean, sanitary and safe condition.

(k) Any minor is found to be loitering about or frequenting the premises.

(2) The police chief, before revoking or suspending any license or permit, shall give the operator or employee at least ten (10) days' written notice of the charges against him or her and the opportunity for a public hearing before the board of mayor and aldermen, at which time the operator or employee may present evidence bearing upon the question. In such cases, the charges shall be specific and in writing.

(3) The transfer of a license or any interest in a license shall automatically and immediately revoke the license. The transfer of any interest in a non-individual operator's license shall automatically and immediately revoke the license held by the operator. Such license shall thereby become null and void.

(4) Any operator or employee whose license or permit is revoked shall not be eligible to receive a license or permit for five (5) years from the date of revocation. No location or premises for which a license has been issued shall be used as an adult-oriented establishment for two (2) years from the date of revocation of the license.

**9-413. Hours of operation.** (1) No adult-oriented establishment shall be open between the hours of 1:00 A.M. and 8:00 A.M. Monday through Saturday, and between the hours of 1:00 A.M. and 12:00 P.M. on Sunday.

(2) All adult-oriented establishments shall be open to inspection at all reasonable times by the Greenbrier Police Department, the Robertson County Sheriff's Department, or such other persons as the board of mayor and aldermen may designate.

**9-414. Responsibilities of the operator.** (1) The operator shall maintain a register of all employees and/or entertainers showing the name, and aliases used by the employee, home address, age, birth date, sex, height, weight, color of hair and eyes, phone numbers, social security number, date of employment and termination, and duties of each employee and such other information as may be required by the board of mayor and aldermen. The above information on each employee shall be maintained in the register on the premises for a period of three (3) years following termination.

(2) The operator shall make the register of the employees available immediately for inspection by police upon demand of a member of the Greenbrier Police Department at all reasonable times.

(3) Every act or omission by an employee constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge, or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.

(4) An operator shall be responsible for the conduct of all employees and/or entertainers while on the licensed premises and any act or omission of any employees and/or entertainer constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator for purposes of determining whether the operator's license shall be revoked, suspended or renewed.

(5) There shall be posted and conspicuously displayed in the common areas of each adult-oriented establishment a list of any and all entertainment provided on the premises. Such list shall further indicate the specific fee or charge in dollar amounts for each entertainment listed. Viewing adult-oriented motion pictures shall be considered as entertainment. The operator shall make the list available immediately upon demand of the Greenbrier Police Department at all reasonable times.

(6) No employee of an adult-oriented establishment shall allow any minor to loiter around or to frequent an adult-oriented establishment or to allow any minor to view adult entertainment as defined herein.

(7) Every adult-oriented establishment shall be physically arranged in such a manner that the entire interior portion of the booths, cubicles, rooms or stalls, wherein adult entertainment is provided, shall be visible from the common area of the premises. Visibility shall not be blocked or obscured by doors, curtains, partitions, drapes, or any other obstruction whatsoever. It shall be unlawful to install booths, cubicles, rooms or stalls within adult-oriented establishments for whatever purpose, but especially for the purpose of secluded viewing of adult-oriented motion pictures or other types of adult entertainment.

(8) The operator shall be responsible for and shall provide that any room or area used for the purpose of viewing adult-oriented motion pictures or other types of live adult entertainment shall be readily accessible at all times and shall be continuously opened to view in its entirety.

(9) No operator, entertainer, or employee of an adult-oriented establishment shall demand or collect all or any portion of a fee for entertainment before its completion.

(10) A sign shall be conspicuously displayed in the common area of the premises, and shall read as follows:

This Adult-Oriented Establishment is Regulated by the City of Greenbrier Municipal Code. Entertainers are:

1. Not permitted to engage in any type of sexual conduct;
2. Not permitted to expose their sex organs;
3. Not permitted to demand or collect all or any portion of a fee for entertainment before its completion.

**9-415. Prohibitions and unlawful sexual acts.** (1) No operator, entertainer, or employee of an adult-oriented establishment shall permit to be performed, offer to perform, perform or allow customers, employees or entertainers to perform sexual intercourse or oral or anal copulation or other contact stimulation of the genitalia.

(2) No operator, entertainer, or employee shall encourage or permit any person upon the premises to touch, caress, or fondle the breasts, buttocks, anus or genitals of any other person.

(3) No operator, entertainer, or employee shall encourage or permit any other person upon the premises to touch, caress, or fondle his or her breasts, buttocks, anus or genitals.

(4) No operator, entertainer, employee, or customer shall be unclothed or in such attire, costume, or clothing so as to expose to view any portion of the sex organs, breasts or buttocks of said operator, entertainer, or employee with the intent to arouse or gratify the sexual desires of the operator, entertainer, employee or customer.

(5) No entertainer, employee or customer shall be permitted to have any physical contact with any other person on the premises during any performance and all performances shall only occur upon a stage at least eighteen inches (18") above the immediate floor level and removed six feet (6') from the nearest entertainer, employee and/or customer.

**9-416. Violations and penalty.** (1) Any person, partnership, corporation, or other business entity who is found to have violated this chapter shall be fined a definite sum not exceeding fifty dollars (\$50.00) for each violation and shall result in the suspension or revocation of any permit or license.

(2) Each violation of this chapter shall be considered a separate offense, and any violation continuing more than one (1) hour of time shall be considered a separate offense for each hour of violation.

## TITLE 10

### ANIMAL CONTROL<sup>1</sup>

#### CHAPTER

1. IN GENERAL.
2. DOGS AND CATS.
3. PIT BULLS.

#### 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. Storage of food.
- 10-105. Keeping in such manner as to become a nuisance prohibited.
- 10-106. Seizure and disposition of animals.
- 10-107. Inspections of premises.
- 10-108. Keeping of chickens.
- 10-109. Eligibility to surrender animals.
- 10-110. Violations and penalty.

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

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

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

---

<sup>1</sup>Wherever 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.

**10-104. Storage of food.** All feed shall be stored and kept in a rat-proof and fly-tight building, box, or receptacle.

**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.

**10-106. Seizure and disposition of animals.** Any animal or fowl found running at large or otherwise being kept in violation of this chapter may be seized by any police officer or other properly designated officer or official and confined in a pound provided or designated by the board of mayor and aldermen. If the owner is known he shall be given notice in person, by telephone, or by a postcard addressed to his last known mailing address. If the owner is not known or cannot be located, a notice describing the impounded animal or fowl will be posted in at least three (3) public places within the corporate limits. In either case the notice shall state that the impounded animal or fowl must be claimed within five (5) days by paying the pound costs or the same will be humanely destroyed or sold. If not claimed by the owner, the animal or fowl shall be sold or humanely destroyed.

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

**10-107. Inspection of premises.** For the purpose of making inspections to ensure compliance with the provisions of this title, the health officer, or such other persons as may be authorized by the governing body, shall be authorized to enter, at any reasonable time, any premises where he has reasonable cause to believe an animal or fowl is being kept in violation of this chapter. (1997 Code, § 10-108)

**10-108. Keeping of chickens.** No person shall keep chickens within the city limits in such a manner that a nuisance is created.

(1) "Domesticated hens" means female chickens that may, where permitted, be kept and maintained for the non-commercial production of eggs, education, companionship, or recreation. Other types of fowl and poultry shall not be considered domesticated hens.

(2) Only hens are allowed; roosters are expressly prohibited. There is no restriction on domestic hen breeds.

(3) Food storage and removal. All stored food for the domesticated hens must be kept either indoors or in a weather-resistant container designed to prevent access by animals. Uneaten food shall be removed daily.

(4) Enclosure. (a) All domesticated hens shall be kept outside of a habitable structure in a predator-proof enclosure, a portion of which must be a covered henhouse, and a portion of which must be a fenced area.

(b) A minimum of two (2) square feet per hen shall be provided for henhouses and six (6) square feet per bird for fenced enclosures.

(c) Fenced enclosures and henhouses must be properly ventilated, clean, dry, and odor-free, kept in a neat and sanitary condition at all times, in a manner that will not disturb the use or enjoyment of neighboring lots due to noise, odor or other adverse impact.

(5) Location. All domesticated hens shall be kept in the rear yards of a residential property subject to the setback standards contained in subsection (6) below. No domesticated hens shall be kept in the front yard. Neither the hens nor the covered henhouse shall be visible from any public right-of-way. Rather, the hens and henhouses shall be entirely screened from view of the public right-of-way using opaque fencing and/or landscaping.

(6) Setbacks. An enclosure shall be located fifty feet (50') away from any residential structure (other than the permit holder's residence) located in a residential zone district and ten feet (10') from any property line.

(7) Sanitation, nuisance, and humane treatment. (a) Provision must be made for the storage and removal of chicken manure. All manure for composting or fertilizing shall be contained in a well-aerated garden compost pile. All other manure not used for composting or fertilizing shall be removed. In addition, the henhouse and surrounding area must be kept free from trash and accumulated droppings.

(b) Disposal of waste must be in a sanitary landfill. All disposals must be in compliance with the state mandate stormwater regulation.

(c) No perceptible odor from the hens or the hen enclosure shall be present at any property line.

(d) No slaughtering of domesticated hens may occur on the property.

(e) No breeding of chickens shall occur on the property.

(f) No domesticated hens shall be used or trained for the purpose of fighting for amusement, sport, or financial gain.

(8) Regulations. These regulations do not supersede or override subdivision restrictions already in place for a particular area. It is the responsibility of the homeowner to research the restrictions prior to obtaining any domesticated hens. (1997 Code, § 10-110, modified)



**10-109. Eligibility to surrender animals.** No animal shall be surrendered to Greenbrier's Animal Control unless it can potentially be adopted out to another individual and is in good health. No animal shall be accepted by animal control if the animal is dying, has deteriorating health conditions, or is on medication(s) to prolong life. Animal control may only accept animals from residents located inside city limits. If an animal is accepted by animal control, there will be no charge to the resident. If an animal is not accepted by animal control, animal control shall not euthanize animals at the owner's request. (Ord. #20-07, June 2020)

**10-110. Violations and penalty.** Any violation of any section of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day the violation shall continue shall constitute a separate offense.

## CHAPTER 2

### DOGS AND CATS

#### SECTION

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

**10-201. Rabies vaccination and registration required.** It shall be unlawful for any person to own, keep, or harbor any dog or cat without having the same duly vaccinated against rabies and registered in accordance with the provisions of the "Tennessee Anti-Rabies Law" (*Tennessee Code Annotated*, §§ 68-8-101 to 68-8-113) or other applicable law.

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

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

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

**10-204. Vicious dogs.**<sup>2</sup> (1) Definition of terms:

- (a) "Owner" means any person, firm, corporation, organization or department possessing or harboring or having the care or custody of a dog, or the parents or guardian of a child claiming ownership.

---

<sup>1</sup>State law reference

*Tennessee Code Annotated*, § 68-8-107.

<sup>2</sup>See cases stating the state's authority to regulate vicious dogs: *State of Tennessee v. Denver Hartly*, 15 TAM 23-2 (Tenn. S. Ct. 1990), and *Darnell v. Shappard*, 3 S.W.2d 661 (1928).

(b) "Vicious dog" means:

(i) Any dog with a known propensity, tendency or disposition to attack unprovoked, to cause injury to, or otherwise threaten the safety of human beings or domestic animals; or

(ii) Any dog which because of its size, physical nature, or vicious propensity is capable of inflicting serious physical harm or death to humans and which would constitute a danger to human life or property if it were not kept in the manner required by this ordinance; or

(iii) Any dog which, without provocation, attacks or bites, or has attacked or bitten, a human being or domestic animal; or

(iv) Any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting;

(c) A vicious dog is "unconfined" if the dog is not securely confined indoors or confined in a securely enclosed and locked pen or structure upon the premises of the owner of the dog. The pen or structure must have secure sides and a secure top attached to the sides. If the pen or structure has no bottom secured to the sides, the sides must be embedded into the ground no less than one foot. All such pens or structures must be adequately lighted and kept in a clean and sanitary condition.

(2) Confinement. The owner of a vicious dog shall not suffer or permit the dog to go unconfined.

(3) Leash and muzzle. The owner of a vicious dog shall not suffer or permit the dog to go beyond the premises of the owner unless the dog is securely muzzled and restrained by a chain or leash, and under the physical restraint of a person. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration, but shall prevent it from biting any human or animal.

(4) Signs. The owner of a vicious dog shall display in a prominent place on his or her premises a clearly visible warning sign indicating that there is a vicious dog on the premises. A similar sign is required to be posted on the pen or kennel of the animal.

(5) Dog fighting. No person, firm, corporation, organization or department shall possess or harbor or maintain care or custody of any dog for the purpose of dog fighting, or train, torment, badger, bait or use any dog for the purpose of causing or encouraging the dog to attack human beings or domestic animals.

(6) Insurance. Owners of vicious dogs must within thirty (30) days of the effective date of this section provide proof to the city clerk of public liability insurance in the amount of at least one hundred thousand dollars (\$100,000.00), insuring the owner for any personal injuries inflicted by his or her vicious dog.

(7) Penalties. Whoever violates any provision of this section shall be guilty of a gross misdemeanor and may be punished by a fine of not less than

ten dollars (\$10.00) and not more than fifty dollars (\$50.00). The conviction of any owner of three (3) or more offenses under this chapter for any dog during one (1) calendar year shall require a confiscation and forfeiture of that animal based on the danger and incorrigibility of owner and animal. Failure to abide by a lawful order of forfeiture is punishable by contempt.

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

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

**10-207. Seizure and disposition of dogs.** Any dog found running at large may be seized by any police officer or other properly designated officer or official and placed in a pound provided or designated by the board of mayor and aldermen. If the dog is wearing a tag or found to be implanted with a microchip, the owner shall be notified in person, by telephone, or by a postcard addressed to his last-known mailing address to appear within five (5) days and redeem his dog by paying a reasonable pound fee, in accordance with a schedule approved by the board of mayor and aldermen, or the dog will be sold or humanely destroyed. If the dog is not wearing a tag it shall be sold or humanely destroyed unless legally claimed by the owner within two (2) days. No dog shall be released in any event from the pound unless or until such dog has been vaccinated and has a tag evidencing such vaccination placed on its collar.

Any new owner adopting a dog that has not been spayed or neutered must pay a twenty-five dollar (\$25.00) deposit before a dog may be released, as required by the Tennessee Spay/Neuter Law.<sup>1</sup>

---

<sup>1</sup>State law reference

*Tennessee Code Annotated*, § 44-17-501, *et seq.*, "The Tennessee Spay/Neuter Law," prohibits persons from adopting a dog or cat from an agency (pound, animal shelter, etc.) operated by a municipality unless the dog or cat was already spayed or neutered, was spayed or neutered while in the custody of the agency, or the new owner signs a written agreement to have the animal spayed or neutered within 30 days of the adoption if the animal is sexually mature, or within 30 days after the animal reaches six (6) months of age if it is not sexually mature.

Before an agency may release an animal which has not been spayed or  
(continued...)

**10-208. Destruction of vicious or infected dogs running at large.**

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

**10-209. Violations and penalty.**

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

---

<sup>1</sup>(...continued)

neutered it must collect a twenty-five dollar (\$25.00) deposit from the new owner to ensure compliance with the law. If the new owner does not comply with the law, the deposit is forfeited and the agency may file a petition in court to force the new owner to either comply with the law or return the animal.

An agency may not spay or neuter a dog or cat that is returned to its original owner within seven (7) days of its being taken into custody by the agency.

<sup>1</sup>State law reference

*Tennessee Code Annotated*, § 44-17-301, *et seq.*

## CHAPTER 3

### PIT BULLS

#### SECTION

10-301. Definitions.

10-302. Restrictions.

10-303. Standard and requirements.

10-304. Sale or trade of ownership prohibited.

10-305. Animals born of registered dogs.

10-306. Rebuttal presumptions.

10-307. Violations and penalty.

**10-301. Definitions.** The word "pit bull" used in this chapter shall have the following meanings:

- (1) The bull terrier breed of dog;
- (2) Staffordshire bull terrier breed of dog;
- (3) The American pit bull terrier breed of dog;
- (4) The American Staffordshire breed of dog, all of the above breeds to be identified and described by the American Kennel Club and United Kennel Club;
- (5) Dogs of mixed breed or of other breeds than listed above which breed or mixed breed is known as pit bulls, pit bull dogs or pit bull terriers; and
- (6) Any dogs which have the appearance and characteristics of being predominantly of the breeds of bull terrier, Staffordshire bull terrier, American pit bull terrier, American Staffordshire terrier and any other breed commonly known as pit bulls, pit bull dogs, or pit bull terriers; or a combination of any of these breeds. (1997 Code, § 10-401)

**10-302. Restrictions.** It shall be unlawful to keep, harbor, own in any way or possess a pit bull dog within the corporate limits of Greenbrier, Tennessee, except as provided in this chapter. (1997 Code, § 10-402)

**10-303. Standard and requirements.** The following standards and requirements apply to pit bulls located within the corporate limits.

(1) **Registration.** Each owner, keeper, harbinger, or possessor of a pit bull dog shall register such dog with the chief of police, or his designee.

(2) **Leash and muzzle.** No person shall permit a pit bull dog to go outside its kennel or pen unless such dog is securely leashed no longer than four feet (4') in length. No person shall permit a bull dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person of suitable age and discretion is in physical control of the leash. Such dogs may not be leashed to inanimate objects such as trees, posts, buildings or structures. In addition, a

muzzling device sufficient to prevent such dog from biting persons or other animals shall muzzle all pit bulls on a leash outside of the animal's kennel.

(3) Confinement. All pit bulls shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as above provided. Such pen, kennel or structure must have secure sides and a secure top attached to the sides. All structures used to confine pit bull dogs must be locked with a key or combination lock when such animals are within the structure, and the structure must have a secure floor attached to the sides of the pen or the sides of the pen must be embedded in the ground no less than two feet (2'). All structures erected to house pit bull dogs shall comply with all zoning and building ordinances and regulations of the City of Greenbrier, and shall be adequately lighted and ventilated and must be kept in a clean and satisfactory condition.

(4) Confinement indoors. No pit bull dog may be kept on a porch, patio, or in any part of a house or structure that would allow the dog to exit said building on its own volition. In addition, no such dog may be kept in a house or structure when the windows are open or when screen windows are the only obstacles preventing the dog from exiting the structure.

(5) Signs. All owners, keepers, harborers, or possessors of pit bull dogs shall display in a prominent place on their premises a sign easily readable by the public using the words "BEWARE OF DOG." In addition, a similar sign is required to be posted on the kennel or pen of such animal.

(6) Insurance. All owners, keepers, harborers, or possessors of pit bull dogs shall provide proof to the city recorder of public liability insurance in a single incident amount of fifty thousand dollars (\$50,000.00) for bodily injury to, or death of, any person or persons, or for damages to property owned by any persons which may result from owning, possessing, keeping or maintaining of such animal. Such insurance policy shall provide that no cancellation of the policy will be made unless ten (10) days' written notice is first given to the city recorder.

(7) Identification photographs. All owners, keepers, possessors, or harborers of pit bull dogs must provide to the city recorder two (2) color photographs of the dog clearly showing the color and approximate size of the animal.

(8) Reporting requirements. All owners, keepers, possessors, or harborers of pit bull dogs shall, within ten (10) days of the incident, report the following information, in writing, to the city recorder as required hereinafter:

- (a) The removal from the city or death of a pit bull dog;
- (b) The birth of offspring of a pit bull dog; or
- (c) The new address of a pit bull dog owner should they move within the corporate limits of the city. (1997 Code, § 10-403)

**10-304. Sale or trade of ownership prohibited.** No person shall sell, barter, or in any way transfer possession of a pit bull dog to any person within the City of Greenbrier unless the recipient registers the pit bull dog with the city recorder at the time of the transfer. The owner of a pit bull dog may sell or otherwise dispose of a pit bull dog or the offspring of such dog to persons who do not reside within the City of Greenbrier. (1997 Code, § 10-404)

**10-305. Animals born of registered dogs.** All offspring born of pit bull dogs born within the City of Greenbrier shall be registered within six (6) weeks of the birth of such animal. (1997 Code, § 10-405)

**10-306. Rebuttal presumptions.** It shall be unlawful for the owner, keeper, harbinger or possessor of a pit bull dog within the City of Greenbrier to fail to comply with the provisions of this chapter. Any dog found to be subject of a violation of this chapter shall be subject to immediate seizure and impoundment. In addition, failure to comply will result in the revocation of the license of such animal resulting in the immediate removal of the animal from the City of Greenbrier. (1997 Code, § 10-406)

**10-307. Violations and penalty.** Any persons violating, or permitting the violation of, any provisions of this chapter shall, upon conviction, be subject to the fine prescribed in the general penalty clause of the Greenbrier Municipal Code. Each day that such violation shall continue constitutes a separate offense. Further, the city court may order the dog removed from the City of Greenbrier. Should the defendant refuse to remove the dog from the City of Greenbrier, the city judge shall find the defendant in contempt and order the immediate confiscation and impoundment of the animal. In addition to the foregoing penalties, any person who violates this chapter shall pay all expenses, including sums for shelter, food, handling, veterinary care and expert testimony, which are necessitated by the person's failure to abide by the provisions of this code. (1997 Code, § 10-407)



## TITLE 11

### MUNICIPAL OFFENSES<sup>1</sup>

#### CHAPTER

1. ALCOHOL.
2. FORTUNE TELLING, ETC.
3. OFFENSES AGAINST THE PEACE AND QUIET.
4. INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL.
5. TRESPASSING AND INTERFERENCE WITH TRAFFIC.

#### CHAPTER 1

### ALCOHOL<sup>2</sup>

#### SECTION

- 11-101. Drinking beer, etc., on streets, etc.  
 11-102. Minors in beer places.  
 11-103. Violations and penalty.

**11-101. Drinking beer, etc., on streets, etc.** It shall be unlawful for any person to drink or consume, or have an open can or bottle of beer in, or on, any public street, alley, avenue, highway, sidewalk, public park, public school ground or other public place. (1997 Code, § 11-101)

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

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

---

<sup>1</sup>Municipal code references

- Animals and fowls: title 10.
- Fireworks and explosives: title 7.
- Residential and utilities: title 12.
- Streets and sidewalks (non-traffic): title 16.
- Traffic offenses: title 15.

<sup>2</sup>Municipal code reference

- Sale of alcoholic beverages, including beer: title 8.

**CHAPTER 2****FORTUNE TELLING, ETC.****SECTION**

11-201. Fortune telling, etc.

**11-201. Fortune telling, etc.** It shall be unlawful for any person to hold himself forth to the public as a fortune teller, clairvoyant, hypnotist, spiritualist, palmist, phrenologist, or other mystic endowed with supernatural powers. (1997 Code, § 11-201)

**CHAPTER 3****OFFENSES AGAINST THE PEACE AND QUIET****SECTION**

11-301. Disturbing the peace.

11-302. Anti-noise regulations.

**11-301. Disturbing the peace.** No person shall disturb, tend to disturb, or aid in disturbing the peace of others by violent, tumultuous, offensive, or obstreperous conduct, and no person shall knowingly permit such conduct upon any premises owned or possessed by him, or under his control. (1997 Code, § 11-401)

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

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

(a) 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 persons 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) Building operations. The 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.

(f) 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.

(g) 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.

(h) 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.

(i) 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, or the state, when the public welfare and convenience renders it impracticable to perform such work during the day.

(c) Noncommercial and nonprofit use of loudspeakers or amplifiers. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character and in the course of advertising functions sponsored by nonprofit organizations. However, no such use shall be made until a permit therefor is secured from the recorder. Hours for the use of an amplifier or public address

system will be designated in the permit so issued, and the use of such systems shall be restricted to the hours so designated in the permit. (1997 Code, § 11-402, modified)

**CHAPTER 4****INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL****SECTION**

11-401. Escape from custody or confinement.

**11-401. Escape from custody or confinement.** It shall be unlawful for any person under arrest or otherwise in custody of, or confined by, the municipality to escape, or attempt to escape, or for any other person to assist or encourage such person to escape, or attempt to escape, from such custody or confinement. (1997 Code, § 11-501)

## CHAPTER 5

### TRESPASSING AND INTERFERENCE WITH TRAFFIC

#### SECTION

11-501. Trespassing.

11-502. Trespassing on trains.

11-503. Interference with traffic.

11-504. Violations and penalty.

**11-501. Trespassing.** The owner or person in charge of any lot or parcel of land, or any building or other structure, within the corporate limits may post the same against trespassers. It shall be unlawful for any person to go upon any such posted lot or parcel of land, or into any such posted building or other structure without the consent of the owner or person in charge.

It shall be unlawful and deemed to be a trespass for any peddler, canvasser, solicitor, transient merchant, or other person to fail to promptly leave the private premises of any person who requests or directs him to leave. (1997 Code, § 11-701)

**11-502. Trespassing on trains.** It shall be unlawful for any person to climb, jump, step, stand upon, or cling to, or in any other way attach himself to any locomotive engine or railroad car unless he works for the railroad corporation and is acting within the scope of his employment, or unless he is a lawful passenger or is otherwise lawfully entitled to be on such vehicle. (1997 Code, § 11-702)

**11-503. 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. (1997 Code, § 11-704)

**11-504. Violations and penalty.** A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code.

## TITLE 12

### BUILDING, UTILITY, ETC. CODES

#### CHAPTER

#### 1. VARIOUS CODES ADOPTED.

#### CHAPTER 1

#### VARIOUS CODES ADOPTED<sup>1,2</sup>

#### SECTION

- 12-101. Codes adopted by reference.
- 12-102. Modifications.
- 12-103. Enforcement official.
- 12-104. Available in recorder's office.
- 12-105. Violations and penalty.

**12-101. Codes adopted by reference.** The following codes and all appendixes are hereby adopted by reference as though they were copied herein fully unless otherwise stated:

- (1) *International Building Code - 2021 Edition.*
- (2) *International Energy Conservation Code - 2021 Edition.*
- (3) *International Electrical Code - 2023 Edition.*
- (4) *International Existing Building Code - 2021 Edition.*
- (5) *International Fire Code - 2021 Edition.*
- (6) *International Fuel Gas Code - 2021 Edition.*
- (7) *International Mechanical Code - 2021 Edition.*
- (8) *International Plumbing Code - 2021 Edition.*
- (9) *International Property Maintenance Code - 2021 Edition.*

---

#### <sup>1</sup>Municipal code references

- Fire protection, fireworks, and explosives: title 7.
- Cross-connections: title 18.
- Planning and zoning: title 14.
- Street excavations: title 16.
- Streets and other public ways and places: title 16.
- Utilities and services: titles 18 and 19.
- Wastewater treatment: title 18.
- Water and sewer system administration: title 18.

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



(10) *International Residential Code - 2021 Edition* (omit in its entirety section R313 *Automatic Fire Sprinkler Systems*, leaving requirement of townhomes in the adopted edition of the IRC).

(11) *National Fire Prevention Code - 2021 Edition*.

(12) *Accessibility Code - ICC-ANSI A117.1 - 2021 Edition*.

(13) All Appendices of all codes listed above. (1997 Code, § 12-101, as amended by Ord. #20-04, June 2020, and Ord. #21-23, Dec. 2021, modified)

**12-102. Modifications.** (1) The 2018 *International Building Code* is amended with the following stipulations:

(a) Appendix I (Patio Covers) is adopted by reference.

(b) Delete Section 1612 Flood Loads. (Locally adopted Flood Ordinance will be used).

(c) Section 202 Definitions: added two items

(i) **NORMAL MAINTENANCE REPAIRS** -- shall be defined as repairs to an existing building or structure, including but not limited to exterior and interior painting, papering, and window and door maintenance, minor repairs to chimneys, stairs, porches, floor re-finishing, underpinning, and re-roofing. The replacement of roof sheathing, as well as the alteration or movement of any structural building components, **does not** fall under the purview of normal maintenance.

(ii) **TEMPORARY** - shall mean no longer than 90 calendar days.

(2) The 2018 *International Residential Code* is amended with the following stipulations:

(a) Chapter 2 - Definitions: added two items

(i) **NORMAL MAINTENANCE REPAIRS** -- shall be defined as repairs to an existing building or structure, including but not limited to exterior and interior painting, papering, and window and door maintenance, minor repairs to chimneys, stairs, porches, floor re-finishing, underpinning, and re-roofing. The replacement of roof sheathing, as well as the alteration or movement of any structural building components, **does not** fall under the purview of normal maintenance.

(ii) **TEMPORARY** -- shall mean no longer than 90 calendar days.

(b) Table R301.2 (1)

Climatic and Geographic Design Criteria	
Ground Snow Load	15 pounds
Wind Speed	115mph
Topographic Effects	No

Climatic and Geographic Design Criteria	
Special Wind Region	No
Windborne Debris Zone	No
Seismic Design Category	B
Subject to Damage from Weathering	Severe
Subject to Damage from frost line depth (inches)	12 inches
Subject to Damage from Termites	Moderate to Heavy
Winter Design Temp (degrees)	14 Degrees Fahrenheit
Ice Barrier Underlayment Required	No
Flood Hazards	See City Flood Ordinance
Air Freezing Index	366
Mean Annual Temperature	59 Degrees Fahrenheit
Manual J Design Criteria Elevation (feet)	640
Latitude (Degrees North)	36
Winter Heating	14
Summer Cooling	94
Altitude Correction Factor	*
Indoor Design Temperature	70
Design Temperature Cooling	75
Heating Temperature Difference	*
Cooling Temperature Difference	*
Wind Velocity Cooling	*
Coincident Wet Bulb	74
Daily Range	M
Winter Humidity	*
Summer Humidity	*

\*This value to be determined using Manual J Design criteria.

(c) Section R309.3 of the 2018 edition of the *International Residential Code for One- and Two-Family Dwellings* is hereby amended by deleting Section R309.3 in its entirety. The City of Greenbrier Adopted Flood Ordinance will be the ruling document.

Section R309.5 of the 2018 edition of the *International Residential Code for One- and Two-Family Dwellings* is hereby amended by deleting Section R309.5 in its entirety.

(d) Section R313.1 of the 2018 edition of the *International Residential Code for One- and Two-Family Dwellings* is hereby amended by creating a new Section R313.1.

Section R313.1. Townhouse automatic fire sprinkler systems. A townhouse shall be considered a separate building with independent exterior walls and shall be separated by a two-hour fire-resistance rated wall assembly. A townhouse shall be built according to local and statewide adopted building codes; provided, however a fire sprinkler system shall not be required for a townhouse. For the purposes of this code, "townhouse" means a single family dwelling unit constructed in a group of three (3) or more attached units that extends from foundation to roof, not more than three (3) stories in height, with a separate means of egress, and a open space of public way on at least two (2) sides.

(e) Section 313.2 of the 2018 edition of the *International Residential Code for One- and Two-Family Dwellings* is hereby amended by deleting Section R313.2 in its entirety.

(f) Section 302.13 Exception 2 amended to read: Floor assemblies located directly over a crawl space not intended for storage, with a standard opening of **18 inches by 24 inches**, or for the installation of fuel fired or electric-powered heating appliances.

(g) Section P2603.5 of the 2018 edition of the *International Residential Code for One- and Two-Family dwellings* is hereby amended by deleting Section P2603.5 and substituting the following:

P2603.5. Freezing. Plumbing fixtures, water, soil and waste pipes shall not be installed outside of a building, in attics or crawl spaces, concealed in outside walls, or in any other places subject to freezing temperatures unless adequate provision is made to protect such pipes from freezing by insulation of heat or both. Exterior water supply system piping shall be installed not less than eighteen (18) inches below grade.

(h) Section P2801.6 of the 2018 edition of the *International Residential Code for One- and Two-Family Dwellings* is hereby amended by deleting Section P2801.6 and substituting the following:

P2801.6. Required Pan. Where a storage tank-type water heater or a hot water storage tank is installed in a location where water leakage from the tank will cause damage, the tank shall be installed in a pan constructed of one of the following:

- (i) Galvanized steel or aluminum of not less than 0.0236 inches in thickness.
- (ii) Plastic pans of the approved type.
- (iii) Other approved materials.

A plastic pan beneath a gas-fired water heater shall be constructed of material having a flame spread index of 25 or less and a smoke-development index of 450 or less when tested in accordance with ASTM E84 or UL 723.

Exception: When water heaters are installed in a crawl space or in a basement without living space, no pan shall be required.

Water heater relief valve piping shall terminate 6 to 10 inches above the floor.

(i) Section P2903.5 of the 2018 edition of the *International Residential Code for One- and Two-Family Dwellings* is hereby amended by deleting Section P2903.5 and substituting the following:

P2903.5. Water Hammer. The flow velocity of the water distribution system shall be controlled to reduce the possibility of water hammer. A water-hammer arrestor shall be installed where quick-closing valves are utilized. Water hammer arrestors shall be installed per the plan design, but at a minimum at all washing machines, dishwashers and standalone ice makers. Water-hammer arrestors shall conform to ASSE 1010.

(j) Section P2903.9.1 of the 2018 edition of the *International Residential Code for One- and Two-Family dwellings* is hereby amended by deleting Section P2903.9.1 and substituting the following:

P2903.9.1. Service Valve. A main shut-off valve on the water service line shall be installed for each dwelling unit within a building and shall be accessible in the living portion of the dwelling unit or an attached garage. Additionally, the water service shall be valved at the curb or property line in accordance with local requirements.

(k) Chapter 19 of the 2018 edition of the *International Residential Code* is hereby amended by adding section M1901.3.

M1901.3. Prohibited Location. Cooking appliances designed, tested, listed or labeled for use in commercial occupancies shall not be installed within dwelling units or within any area where domestic cooking operations occur.

(l) Section G24 17.1.1 of the 2018 edition of the *International Residential Code for One- and Two-Family Dwellings* is hereby amended by deleting Section G241 7.1. 1 and substituting the following:

G2417.1.1. Inspections. On completion of the installation, alteration, repair or replacement of gas piping, and prior the use thereof, the building official shall be notified the gas piping is ready for inspection.

(m) Section 02417.1 of the 2018 edition of the *International Residential Code for One- and Two-Family Dwellings* is hereby amended by adding Section G2417.1.1.3, G2417.1.1.4 and G2417.1.1.5.

G2417.1.1.3. Rough fuel-gas inspection. This inspection shall be made after gas piping authorized by the permit has been installed and

before such piping has been covered or concealed or a fixture or appliance has been attached thereto. This inspection shall include a determination that the gas piping size, material and installation meets the requirements of this chapter. It shall also include an air pressure test at which time the gas piping shall stand a pressure of not less than 30 pounds per square inch gauge (68.9 kPa gauge) and shall hold this pressure for a length of time of no less than twenty (20) minutes, with no perceptible drop in pressure. The test shall be made using air pressure only. Necessary apparatus for conducting the test shall be furnished by the permit holder.

G2417.1.1.4. Gas Meter Release Inspection. Gas meter release inspection shall be conducted when all fuel gas appliances are connected to the gas pipe system or plugged with a cast iron plug. All appliance venting shall be in place at the time of the meter release inspection. A shut-off valve in the off position with no appliance connected, shall not be an acceptable termination of the building gas pipe.

G2417.1.1.5. Final Inspection. This inspection shall be made after piping authorized by the permit has been installed and after all portions thereof which are to be covered or concealed and after all fixtures, venting, appliances, shut off valves, and cast iron plugs have been installed.

(n) Section G2417.4.1 of the 2018 edition of the *International Residential Code for One- and Two-Family Dwellings* is hereby amended by deleting Section G2417.4.1 and substituting the following:

G2417.4.1. Air Pressure Test. This inspection shall be made after gas piping authorized by the permit has been installed and before such piping has been covered or concealed or a fixture or appliance has been attached thereto. This inspection shall include a determination that the gas piping size, material and installation meets the requirements of this chapter. It shall also include an air pressure test at which time the gas piping shall stand a pressure of not less than 30 pounds per square inch gauge ( 68.9 kPa gauge) and shall hold this pressure for a length of time of no less than twenty (20) minutes, with no perceptible drop in pressure. The test shall be made using air pressure only. Necessary apparatus for conducting the test shall be furnished by the permit holder.

(o) Section N1 102.4.1.2 (R402.4.1.2) Testing is replaced with Section N1 102.4.2.1 Testing Option and Section N1 102.4.2.2 Visual Inspection from 2009 IRC. 6.

(p) Section N1 103.3.3 (R403.3.3) Duct Testing (Mandatory) and Section N1 103.3.4 (R403.3.4) Duct Leakage (Prescriptive) are optional.

(q) Table N1 102.1.2 (R402.1.2) Insulation and Fenestration Requirement by Component and Table N1 102.1.4 (R402.1.4) Equivalent U-Factors from 2018 edition of the *Residential Code for One- and Two-Family Dwellings and Townhouses* are replaced with Table N1 102.1

Insulation and Fenestration Requirements by Component and Table N1 102.1.2 Equivalent U-Factor from 2009 IRC.

(3) The 2018 edition of the *International Plumbing Code* is amended with the following stipulations:

(a) 2018 edition of the *International Plumbing Code* published by the International Code Council, adopted with Appendices B, C, D and E.

(b) Section 305.4 and 312.3 of the 2018 edition of the *International Plumbing Code* is hereby amended by deleting Sections 305.4 and 312.3 and substituting the following:

305.4. Freezing. Plumbing fixtures, water, soil and waste pipes shall not be installed outside of a building, in attics or crawl spaces, concealed in outside walls, or in any other places subject to freezing temperatures unless adequate provision is made to protect such pipes from freezing by insulation of heat or both. Exterior water supply system piping shall be installed not less than eighteen (18) inches below grade.

312.3. Drainage and vent air test. Plastic piping shall not be tested using air. An air test shall be made by forcing air into the system until there is a uniform gauge pressure of 5 psi (34.5 kPa) or sufficient to balance a 10-inch column of mercury. This pressure shall be held for a test period of not less than 15 minutes. Any adjustments to the test pressure required because of changes in ambient temperatures or the seating of gaskets shall be made prior to the beginning of the test period.

Exception: Air testing on plastic pipe shall be permissible when water is not readily available or when the temperature is forecast to be below 32 degrees.

(c) Section 503.1 of the 2018 edition of the *International Plumbing Code* is hereby amended by deleting Section 503.1 and substituting the following:

503.1. Cold water line valve. The cold water branch line from the main water supply line to each hot water storage tank or water heater shall be provided with a shutoff valve, located within 3 feet of the equipment and serving only the hot water storage tank or water heater. The valve shall not interfere or cause a disruption of the cold water supply to the remainder of the cold water system. The valve shall be provided with access on the same floor level as the water heater served.

(d) Section 504.7 of the 2018 edition of the *International Plumbing Code* is hereby amended by deleting Section 504.7 and substituting the following:

504.7. Required Pan. Where a storage tank-type water heater or a hot water storage tank is installed in a location where water leakage from the tank will cause damage, the tank shall be installed in a pan constructed of one of the following:

(i) Galvanized steel or aluminum of not less than 0.0236 inches in thickness.

(ii) Plastic pans of the approved type.

(iii) Other approved materials.

(e) Section 604.9 of the 2018 edition of the *International Plumbing Code* is hereby amended by deleting Section 604.9 and substituting the following:

604.9. Water Hammer. The flow velocity of the water distribution system shall be controlled to reduce the possibility of water hammer. A water-hammer arrestor shall be installed where quick-closing valves are utilized. Water hammer arrestors shall be installed per the plan design, but at a minimum at all washing machines, dishwashers and standalone ice makers. Water-hammer arrestors shall conform to ASSE1010.

(f) Section 903.1 of the 2018 edition of the *International Plumbing Code* is hereby amended by deleting Section 903.1 and substituting the following:

903.1. Stack required. Open vent pipes that extend through the roof shall be terminated not less than 12" above the roof. Where a roof is to be used for assembly or as a promenade observation deck, sunbathing deck or similar purposes, open vent pipes shall terminate not less than 7 feet above the roof.

(4) The 2018 edition of the *International Fuel Gas Code* is amended with the following stipulations:

(a) Appendices A, B, C and D are adopted by reference.

(b) Section 406.4 of the 2018 edition of the *International Fuel Gas Code* is hereby amended by deleting Sections 406.4.1 and 406.4.2 and substituting the following:

406.4.1. Method of testing. Gas piping shall withstand a pressure test of 30 psi for a period of twenty (20) minutes without showing and drop in pressure.

(5) The 2018 edition of the *International Mechanical Code* is amended with the following stipulations:

(a) Appendix A is adopted by reference. (as added by Ord. #21-23, Dec. 2021)

**12-103. Enforcement official.** Within said ICC 2018 *International Building Code* and the ICC 2018 *International Residential Code*, and any subsequent revisions or additions thereunto, when reference is made to the duties of certain officials named therein, that designated official of the City of Greenbrier, Tennessee, who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of said code are concerned. (Ord. #21-23, Dec. 2021)

**12-104. Available in recorder's office.** Pursuant to the requirements of *Tennessee Code Annotated*, § 6-54-501, one (1) copy of each of the codes adopted in this chapter has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

**12-105. Violations and penalty.** It shall be unlawful for any person to violate or fail to comply with any provision of the codes 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 REGULATIONS<sup>1</sup>

#### CHAPTER

1. MISCELLANEOUS.
2. JUNKYARDS.
3. TREE PROTECTION AND PLANTING PROVISIONS.
4. JUNKED VEHICLES ON PUBLIC AND PRIVATE PROPERTY.
5. RESIDENTIAL RENTAL REGULATIONS.
6. SLUM CLEARANCE.

#### CHAPTER 1

#### MISCELLANEOUS

#### SECTION

- 13-101. Health officer.
- 13-102. Smoke, soot, cinders, etc.
- 13-103. Stagnant water.
- 13-104. Overgrown and dirty lots.
- 13-105. Dead animals.
- 13-106. Health and sanitation nuisances.
- 13-107. House trailers.
- 13-108. Storage and display of tires and related items.
- 13-109. Violations and penalty.

**13-101. Health officer.** The "health officer" shall be such municipal, county, or state officer as the governing body shall appoint or designate to administer and enforce health and sanitation regulations within the municipality. (1997 Code, § 13-101)

**13-102. Smoke, soot, cinders, etc.** It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes, dust, or gases as to be detrimental to, or to endanger the health, comfort, and safety of, the public or so as to cause, or have a tendency to cause, injury or damage to property or business. (1997 Code, § 13-102, modified)

---

<sup>1</sup>Municipal code references  
 Animal control: title 10.  
 Littering streets, etc.: § 16-107.

**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 without treating it so as to effectively prevent the breeding of mosquitoes. (1997 Code, § 13-103)

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

(2) Standards. The owners and occupants of real property in thety of Greenbrier, Tennessee, whether the same be vacant or occupied, are hereby required to keep all trees, vines, grass, underbrush and/or the accumulations of debris, trash, litter, or garbage, or any combination of the preceding elements, weeds, wild bushes, rank or noxious vegetation and rubbish of every kind and character cleared and removed from such property, and to keep grass mowed to an acceptable height (not over twelve inches (12") in height) as seen from the traveled portion of any public street or highway. Debris shall include automobiles of more than five (5) years of age remaining unmoved and inoperable for a period of thirty (30) consecutive days.

(3) Designation of public officer or department. The board of mayor and aldermen designates the property standards officer to enforce the provisions of this section.

(4) Notice to property owner. It shall be the duty of the department, or person designated by the board of mayor and aldermen, to enforce this section to serve notice upon the owner of record in violation of subsections (1) and (2) above a notice in plain language to remedy the condition within ten (10) days (or twenty (20) days if the owner of record is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), excluding Saturdays, Sundays, and legal holidays. The notice shall be sent by United States mail, addressed to the last known address of the owner of record, or hand delivered with the deliverer obtaining the owner's signature confirming receipt of the notice. The notice shall state that the owner of the property is entitled to a hearing, and shall, at the minimum, contain the following additional information:

(a) A brief statement that the owner is in violation of § 13-104 of the Greenbrier Municipal Code, which has been enacted under the authority of *Tennessee Code Annotated*, § 6-54-113, and that the property of such owner may be cleaned up at the expense of the owner and a lien placed against the property to secure the cost of the clean-up;

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

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

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

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

(6) Clean-up of owner-occupied property. When the owner of an owner-occupied residential property fails or refuses to remedy the condition within ten (10) days after receiving the notice, the department, or person designated by the board of mayor and aldermen to enforce the provisions of this section, shall immediately cause the condition to be remedied or removed at a cost in accordance with reasonable standards in the community, with these costs to be assessed against the owner of the property. The provisions of subsection (4) above shall apply to the collection of costs against the owner of an owner-occupied residential property except that the municipality must wait until cumulative charges for remediation equal or exceed five hundred dollars (\$500.00) before filing the notice with the register of deeds and the charges becoming a lien on the property. After this threshold has been met and the lien

attaches, charges for costs for which the lien attached are collectible as provided in subsection (4) above for these charges.

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

(8) **Judicial review.** Any person aggrieved by an order or act under subsection (4) above may seek judicial review of the order or act. The time period established in subsection (3) above shall be stayed during the pendency of judicial review.

(9) **Supplemental nature of this section.** The provisions of this section are in addition and supplemental to, and not in substitution for, any other provision in the municipal charter, this municipal code of ordinances or other applicable law which permits the city to proceed against an owner, tenant or occupant of property who has created, maintained, or permitted to be maintained on such property the growth of trees, vines, grass, weeds, underbrush and/or the accumulation of the debris, trash, litter, or garbage, or any combination of the preceding elements, under its charter, any other provisions of this municipal code of ordinances or any other applicable law. (1997 Code, § 13-104)

**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. (1997 Code, § 13-105)

**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. (1997 Code, § 13-106)

**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 municipality and unless a permit therefor shall have been first duly issued by the building official, as provided for in the building code. (1997 Code, § 13-107)

**13-108. Storage and display of tires and related items.** No tires, whether new or used, that are intended for sale shall be displayed in such a way so as to collect stagnant water. All tires shall be stored, stacked, displayed, piled, kept inside a building or structure, or by any other means in order to prevent the accumulation of stagnant water. All outside displays of tires shall be stored during non-business hours within a permanent enclosed structure in such a way to prevent the collection and retaining of water. This section shall also apply to tires for sale located on personal property. It is the responsibility of the owner or tenants of any premises to prevent the accumulation of stagnant water in any tire product or equipment indicative of the business service or for personal use, as indicated in § 13-103 of this chapter. (1997 Code, § 13-108)

**13-109. Violations and penalty.** Any person violating this chapter shall also be subject to a civil penalty of fifty dollars (\$50.00) plus court costs for each separate violation of this chapter. Each day the violation of this chapter continues shall be considered a separate violation. (1997 Code, § 13-109)

## CHAPTER 2

### JUNKYARDS

#### SECTION

13-201. Junkyards.

13-202. Violations and penalty.

**13-201. Junkyards.**<sup>1</sup> All junkyards within the corporate limits shall be operated and maintained subject to the following regulations:

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

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

(3) Such yards shall be so maintained as to be in a sanitary condition and so as not to be a menace to the public health or safety. (1997 Code, § 13-201)

**13-202. Violations and penalty.** Violations of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

---

<sup>1</sup>State law reference

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

## CHAPTER 3

### TREE PROTECTION AND PLANTING PROVISIONS

#### SECTION

- 13-301. Findings of fact and statement of legislative intent.
- 13-302. Definitions.
- 13-303. Administration.
- 13-304. Exemptions.
- 13-305. Protection of existing tree cover.
- 13-306. Site plan review.
- 13-307. Residential subdivision development.
- 13-308. Grading and tree protection plan.
- 13-309. Tree planting procedures.
- 13-310. Tree maintenance.
- 13-311. Tree removal.

**13-301. Findings of fact and statement of legislative intent.** The board of mayor and aldermen find that:

(1) Trees are proven producers of oxygen, a necessary element for human survival.

(2) Trees appreciably reduce the ever increasing environmentally dangerous carbon dioxide content of the air and play a vital role in purifying the air we breathe.

(3) Trees transpire considerable amounts of water each day and thereby purify the air much like air-washer devices used on commercial air conditioning systems.

(4) Trees have an important role in neutralizing waste water passing through the ground from the surface to groundwater tables and lower aquifers.

(5) Trees, through their root systems, stabilize the groundwater tables and play an important and effective part in soil conservation, erosion control, and flood control.

(6) Trees are an invaluable physical, aesthetic, and psychological counterpoint to the urban setting, making urban life more comfortable by providing shade and cooling the air and land, reducing noise levels and glare, and breaking the monotony of human developments on the land, particularly parking areas.

(7) For reasons indicated herein trees have an important impact on the desirability of land and therefore property values. (1997 Code, § 13-301)

**13-302. Definitions.** The following terms used within this chapter shall be defined as follows:

(1) "Buildable area." That portion of a lot on which a structure or improvement may be erected in accordance with current zoning provisions.

- (2) "Caliper Inches (CI)." Quantity in inches of the diameter of supplemental and replacement trees measured at the height of six inches (6") above the ground for trees of four inches (4") and under in trunk diameter and twelve inches (12") above the ground for trees of more than four inches (4") in trunk diameter. (Caliper inches shall be used to measure newly planted material.)
- (3) "Conifer tree." Any tree with needle leaves and a woody cone fruit.
- (4) "Cover area." The circumferential area within the drip line of the tree.
- (5) "Deciduous." Those trees that shed their leaves in fall or winter.
- (6) "Diameter at Breast Height (DBH)." The diameter in inches of a tree measured at four and one-half feet (4-1/2') above the existing grade. (DBH shall be used to measure existing trees to remain.)
- (7) "Drip line." A vertical line extending from the outermost portion of the tree canopy to the ground.
- (8) "Endangered species." Those trees that are under protection of state and/or federal law.
- (9) "Evergreen." Those trees, including broad leaf and conifer evergreens, that maintain their leaves year round.
- (10) "Heritage tree." A tree of significant age or stature that constitutes a unique asset to the community.
- (11) "Overstory." Those trees that compose the top layer or canopy of vegetation.
- (12) "Replacement planting." The planting of trees on a site that, before development, had more than the minimum standard trees per acre, but would be less than the minimum after development.
- (13) "Supplemental planting." The planting of trees on a site that, prior to development, had less than the minimum standard of trees per acre.
- (14) "Tree." Any living, self-supporting woody or fibrous plant which is a conifer, evergreen, deciduous or ornamental, as defined herein.
- (15) "Tree Density Units (TDU)." The number value resulting from the Tree Value Factor (TVF) times the actual measured inches (DBH) of trees in each respective category of trees.
- (16) "Tree protection zone." The area around a tree corresponding to the drip line of a mature tree or ten feet (10') in all directions from the trunk of other trees, at the discretion of the code enforcement officer.
- (17) "Tree Value Factor (TVF)." The numerical value assigned to each tree category. (1997 Code, § 13-302)

**13-303. Administration.** The city tree program shall be administered by the department of code enforcement. This department shall be supported in the enforcement of this chapter by other departments and agencies of the city as specified herein. Specific areas of responsibility are assigned as follows:



(1) Department of code enforcement. The department of code enforcement shall provide overall enforcement of this chapter through the office of building inspection. The department shall provide inspection of development sites to ensure compliance with the tree protection and grading criteria specified within this chapter.

(2) Planning commission. The planning commission shall review development plans, specifically including site development plans and subdivisions of land for compliance with the provisions of this chapter.

(3) Greenbrier Park Board. The Greenbrier Park Board shall function as the tree board in order to:

(a) Provide and coordinate publicity concerning trees and the tree protection program of the city.

(b) Recognize groups and individuals for their actions taken in furtherance of tree protection projects.

(c) Coordinate donations of trees or money given for that purpose.

(d) Evaluate and recommend to the board of mayor and aldermen unique tree(s) to be designated as a "heritage tree."

(e) Oversee and make recommendations pertaining to tree management practices utilized in city parks and all other public lands within the city. (1997 Code, § 13-303)

**13-304. Exemptions.** The following shall be exempt from the tree protection requirements.

(1) Utility operations. Excavation, tree pruning and removals by duly constituted communication, water, sewer, electrical or other utility companies, or federal, state, or local government agencies, or engineers or surveyors working under a contract with such utility companies or agencies, shall be exempt; provided the activity is limited to those areas necessary for maintenance of existing lines or facilities, or for construction of new lines or facilities in furtherance of providing utility service to its customers; and provided further that the activity is conducted so as to avoid any unnecessary removal and, in the case of aerial electrical utility lines, is not greater than that specified by the current adopted electrical code as necessary to achieve safe electrical clearances. All pruning and trimming shall be done in accordance with National Arbor Day Association standards.

(2) Commercial growers. All commercial nurseries, botanical gardens, tree farms and grove operations shall be exempt from the provisions of this section, but only those trees and sites which are planted or managed for silvicultural or agricultural purposes.

(3) Surveyors. A licensed land surveyor in the performance of duties; provided such alteration or removal is limited to a swath of three feet (3') or less in width.

(4) Emergencies. During emergencies caused by natural disaster, the provisions of this section may be suspended by the mayor.

**13-305. Protection of existing tree cover.** Commercial and residential developments within the city should reflect the city's commitment to trees. This includes the preservation of existing trees whenever practical and the judicious planting of new tree materials. A permit will be required of a builder/developer for any construction work that will impact on existing trees.

(1) Tree protection -- private land. (a) Undeveloped property. To prevent the unnecessary destruction of trees on undeveloped property, the destruction, within any five (5) year period, of fifteen percent (15%) or more of the live trees four inches (4") or more in DBH on any one (1) parcel or real property located within the city, without prior approval of grading and tree protection plan (See subsection (2) below) shall be prohibited. This provision shall not apply to any property which, at the time of adoption of this chapter or at any time within the future, is under protection of the Agricultural Forest and Open Space Land Act of 1976. (See *Tennessee Code Annotated*, § 67-5-1000.)

(b) Tree protective zone. All lots utilized as sites for single and two (2) family detached housing shall have a tree protective zone designated thereon. The tree protective zone shall correspond with that portion of a zone lot which lies outside the "buildable area" of such lot as defined by this chapter. To prevent the unnecessary destruction of trees during development or redevelopment of any tract or lot, trees shall not be cut, otherwise damaged or destroyed within the tree protective zone, except in accordance with the provisions of this section; nor shall any person pave with concrete, asphalt, or other impervious material within the cover area of any tree.

(c) Protection during development. To assure the survival and health of protected trees that are not to be removed, the developer shall avoid the following kind of tree injuries during all development activities:

- (i) Mechanical injuries to roots, trunk and branches;
- (ii) Injuries by chemical poisoning;
- (iii) Injuries by changes in grade;
- (iv) Injuries by excavations; and
- (v) Injuries by paving.

During any building, renovating or razing operations, the builder shall erect and maintain suitable protective barriers around all trees specified to be maintained so as to prevent damage to said trees, and shall not allow storage of equipment, materials, debris or fill to be placed in this area except as may be necessary for a reasonable time if no other storage space is available. The type and nature of these protective barriers shall be indicated upon the approved site plan or grading and tree protection plan.

(d) Development limited within tree protection zone. All development activities, except those specifically permitted by this section, shall be prohibited within the tree protection zone. All temporary construction activities shall also be prohibited within tree protection areas, including all digging, concrete washing, storage of construction material, and parking of construction vehicles. The following activities may be permitted within the designated tree protection zone or any residential lot:

(i) Utility excavation. Excavating or trenching for utilities shall be permitted within the tree protection zone, except where the trees are historic or specimen, in which case utility lines shall be tunneled beneath tree roots in order to protect feeder roots.

(ii) Drainage construction. Excavating or trenching for construction of drainage facilities shall be permitted within the tree protection zone, except where the trees are historic or specimen, in which case drainage facilities shall be designated so as to avoid covered areas of such trees.

(iii) Driveway construction. Excavating or trenching for construction of driveways shall be permitted within the tree protection zone, except where the trees are historic or specimen, in which case no person shall pave with concrete, asphalt, or other impervious material within the cover area of any such tree.

(2) Public tree protection. The provisions set forth below shall apply to trees located upon public rights-of-way and within public parks:

(a) No person shall, without the written permission of the city, remove, destroy, break, cut or deface any tree or shrub that is growing in any public right-of-way or city park.

(b) No person shall, directly or indirectly, permit any toxic chemical or any toxic substance to seep or drain, or be emptied on or about any tree that is growing in the public right-of-way or city parks.

(c) No person shall, directly or indirectly, place stone or cement or other substance about the tree growing in the street rights-of-way which will impede the free entrance of water or air to the roots of such trees without leaving an open space of ground about the trunk of such tree of not less than sixteen (16) square feet.

(d) No person shall remove, damage or misuse, or attach any foreign object to any guard or device placed or intended to protect any tree, plant or shrub growing in any public right-of-way or city parks.

(e) No person shall attach or place any rope, wire, sign, poster, handbill or any other thing on any tree or shrub growing in any public right-of-way or city parks.

(f) During the erection, demolition, or repair of any building or structure, the owner thereof shall place, or cause to be placed, guards

around all nearby trees growing in the street right-of-way so as to prevent injury to them. (1997 Code, § 13-305)

**13-306. Site plan review.** (1) Required tree density. On developments that are required to have site development plan approval the quality of trees located upon a site shall meet a minimum tree density criteria. A fixed formula will balance the number, size and category of trees preserved with the number and size of trees planted in order to retain minimum desired density factor. The resultant factor shall be no less than twenty (20) Tree Density Units (TDU's) per acre. Existing trees and newly planted trees contribute to the total density with the minimum tree size considered for existing trees to be six inches (6") DBH, and the maximum tree size for existing trees to be forty inches (40") DBH.

The following Tree Value Factors (TVF) shall be multiplied by the respective DBH or CI, for the total number of trees to arrive at the total Tree Density Units (TDU) for the site (see Appendix A,<sup>1</sup> for a list of trees by category). Any tree type not listed shall have a TVF of zero (0), unless approved otherwise by the tree board.

(2) Tree Density Unit (TDU) calculation. The Tree Value Factors (TVF) presented below for various categories of trees shall be multiplied by the respective DBH or CI, for the total number of trees within each respective category to arrive at the Tree Density Units (TDU) for each category.

**Tree Value Factors**

Category One	1.00
Category Two	0.75
Category Three	0.50

(TVF Category One) X (DBH or CI, for the total number of trees) = TDU Category One  
 (TVF Category Two) X (DBH or CI, for the total number of trees) = TDU Category Two  
 (TVF Category Three) X (DBH or CI, for the total number of trees) = TDU Category Three  
 TDU Category One + TDU Category Two + TDU Category Three = Combined TDU

The TDUs for each of the three (3) categories are then added to form the combined TDU for the site. The combined TDU is applied as an average over the total acreage in the development site. The combined TDU of existing and replacement trees shall be a minimum of twenty (20) times the gross acreage of the development site. Ideally, the trees should be located upon the site so that each acre of the site comes as close as possible to the prescribed unit of tree density per acre.

---

<sup>1</sup>Appendix A to this chapter can be found after the Appendix tab of this municipal code.

(3) Payment in lieu. If the applicant demonstrates to the satisfaction of the planning commission that the site cannot accommodate the total number of required trees as a result of insufficient planting area, the applicant shall provide a monetary contribution to the Tree Protection and Related Expenses Trust Fund. The amount of such contribution shall be determined as follows: for every two (2) caliper inches, or fraction thereof, of replacement trees which would otherwise be required, the contribution shall be equal to the retail value of a planted two-inch (2") caliper nursery grown shade tree. The retail value shall be calculated by taking the average of the median current wholesale price for a container grown, or a balled and burlapped two-inch (2") caliper northern red oak, multiplied by two (2). The retail value shall be recalculated and adjusted annually on October 1. (1997 Code, § 13-306)

**13-307. Residential subdivision development.** Following adoption of this provision, in all residential subdivisions approved within the city, at least one (1) "Category One" tree shall either exist or be planted in the front yard of every lot prior to final approval of the dwelling by the department of code enforcement. All trees planted to meet this requirement shall comply with the size, grade and height provisions of § 13-309 of this chapter. (1997 Code, § 13-307)

**13-308. Grading and tree protection plan.** A permit shall be required upon any site located within the city for all grading, earthmoving, changing of elevation of property, or removal of fifteen percent (15%) or more of the live trees four inches (4") or more in DBH.

(1) Permit required. Permits for work covered may be obtained after submission to the planning commission a written statement of the purpose of the work and a grading and tree protection plan prepared by a licensed surveyor, landscape architect, architect or engineer which shall include the following:

- (a) Location, size and variety of all trees with four-inch (4") or greater DBH, to be removed or retained;
- (b) The nature and extent of the proposed grading, earthmoving or change in elevation; and
- (c) The applicant's plans for controlling on-site generated sedimentation, erosion and runoff.

(2) Plans to be approved. Any grading permit application shall be approved if it can be determined that:

- (a) The grading plan, including tree removal, has been prepared and will be performed in accordance with good flood, erosion and sedimentation control practices and good forestry practices;
- (b) The application addresses the saving of existing trees; and
- (c) The application provides for sufficient and timely replanting of trees to compensate for trees removed. (1997 Code, § 13-308)

**13-309. Tree planting procedures.** Tree planting shall be a required activity on public and private lands as specified in this chapter. For the purpose of this chapter, "public lands" shall be defined as all land owned by the City of Greenbrier. A planting program shall be developed by the city for public lands and conducted in a systematic manner to assure diversity of age classes and species.

(1) Species selection. All trees planted on public property shall be of a kind (species) referenced on the city's recommended tree list and approved by the city tree board.

(2) Size and grade. (a) Height classification. For purposes of this chapter, trees reaching up to twenty-five feet (25') in height at maturity are designated as small trees. Medium trees will mature at twenty-five to fifty feet (25' to 50'). Large trees will mature at heights greater than fifty feet (50').

(b) Size. Unless otherwise specified by the city, all medium to large deciduous tree species and varieties shall conform to the American Association of Nurserymen standards and be at least one and one-fourth inches (1-1/4") to one and one half inches (1-1/2") in caliper, six inches (6") above ground level, single stem, and at least eight feet (8') to ten feet (10') in height when planted. The crown shall be in good balance with the trunk. All small tree species and their cultivars or varieties shall be at least five feet (5') to six feet (6') or more in height and have six (6) or more branches.

(c) Grade. Unless otherwise allowed for specific reasons, all trees shall have comparatively straight trunks, well developed leaders and tops, and root characteristic of the species or variety showing evidence of proper nursery pruning. All trees must be free of insects, disease, mechanical injuries and other objectionable features at the time of planting.

(3) Location and spacing. (a) Trees shall be planted at least forty feet (40') from street intersections or as directed by the department of public works.

(b) The following shall be used as a guide for tree planting on public rights-of-way, unless otherwise approved by the city:

<u>FIXED OBJECT</u>	<u>MINIMUM PLANTING DISTANCE</u>
Alleyways	15 feet
Driveways	10 feet
Fire Hydrants	10 feet
Manholes in Grass Strips	5 feet

<u>FIXED OBJECT</u>	<u>MINIMUM PLANTING DISTANCE</u>
Removed Tree Stumps	3 feet
Street Lights	15 feet
Utility Meters or Valves	5 feet
Utility Poles	10 feet

(4) Protection of utilities. No street tree with a mature height greater than twenty-five feet (25') shall be planted within ten feet (10') of any overhead utility wire. No public tree or street tree shall be planted over, or within, five (5) lateral feet of any underground water, sewer or other utility transmission line (excluding telephone, cable TV and other individual service lines). (1997 Code, § 13-309)

**13-310. Tree maintenance.** The city shall be responsible for maintenance activities needed to keep public trees healthy and to minimize the risk of injury to people or property.

(1) Tree topping prohibited. The practice of tree topping is prohibited on all public trees or state trees, and is strongly discouraged as a tree care practice on private streets.

(2) Tree pruning practices. Tree pruning shall be performed in a manner that protects the public. Street, public and private, trees growing along streets and sidewalks shall be pruned free of limbs to a height of eight feet (8') for sidewalks and twelve feet (12') for streets, except those that are subject to truck traffic which shall have a clearance of sixteen feet (16'). No lateral growth shall be permitted onto the sidewalk or street below this height. Tree branches shall not obstruct the view of any traffic sign or control device. No tree or shrub shall obstruct any visibility area required at the intersection of public streets, or at the intersection of a private drive with a public street. (1997 Code, § 13-310)

**13-311. Tree removal.** Any tree or shrub located on public or private property which obstructs a public street or sidewalk, or which suffers from a communicable disease or insect infestation, or which threatens the public welfare or the health of public trees as determined by the city is hereby declared to be a public nuisance.

When such a public nuisance exists, the city may cause appropriate action to be taken as follows:

(1) Determination of hazard. The department of code enforcement, with assistance from other departments, shall evaluate the tree(s) as to the

degree of potential hazard. The evaluation shall result in one (1) of the following actions.

(a) An evaluation of "imminent danger" means that the hazard is immediate. If the property owner cannot be contacted or refuses to remove the hazard, the city will take action immediately.

(b) An evaluation of "dangerous" means that the hazard is present but not immediate. The property owner will be contacted and be given seventy-two (72) hours to remove the hazard. After this time the city will initiate action.

(c) An evaluation of "potentially dangerous" means that a hazard will exist in the near future. The property owner will be notified and should remove the future hazard within sixty (60) days or provide "expert opinion" information as to why the hazard does not exist.

(2) Expense recovery. If the owner fails to comply with such notice in the specified time, the city shall cause such trees or shrubs to be pruned, treated or removed as necessary to eliminate the public nuisance. The city shall record all expenses involved in such work and shall be authorized to collect such expenses from the owner or person responsible for causing the correction to be required. (1997 Code, § 13-311)



## CHAPTER 4

### JUNKED VEHICLES ON PUBLIC AND PRIVATE PROPERTY

#### SECTION

- 13-401. Definitions.
- 13-402. Violations--a civil offense.
- 13-403. Exceptions.
- 13-404. Enforcement.
- 13-405. Violations and penalty.

**13-401. Definitions.** For the purpose of the interpretation and application of this chapter, the following words and phrases shall have the indicated meanings:

(1) "Building and codes inspector" and "property standards official" means the individuals employed by the City of Greenbrier to act on behalf of the city in carrying out the duties and responsibilities as described in the applicable job descriptions for each position.

(2) "Hobby cars" means vehicles used for the purpose of a hobby, i.e. race cars and car restoration activities.

(3) (a) "Junked vehicle" means a vehicle of any age that does not display a current license plate and vehicle registration and is damaged or defective in any one (1) or combination of any of the following ways that either makes the vehicle immediately inoperable or would prohibit the vehicle from being operated in a reasonably safe manner upon the public streets and highways under its own power if self-propelled or while being towed or pushed if not self-propelled:

(i) Flat tires, missing tires, missing wheels, or missing, or partially or totally disassembled tires and wheels;

(ii) Missing, or partially or totally disassembled essential part or parts of the vehicle's drive train, including, but not limited to, engine, transmission, transaxle, drive shaft, differential or axle;

(iii) Extensive exterior body damage or missing, or partially or totally disassembled essential body parts, including, but not limited to, fenders, doors, engine hood, bumper or bumpers, windshield or windows;

(iv) Missing, or partially or totally disassembled essential interior parts, including, but not limited to, driver's seat, steering wheel, instrument panel, clutch, brake or gear shift lever;

(v) Missing, or partially or totally disassembled parts essential to the starting or running of the vehicle under its own power, including, but not limited to, starter, generator or alternator, battery, distributor, gas tank, carburetor or fuel injection system, spark plugs or radiator;

(vi) Interior is a container for metal, glass, paper, rags or other cloth, wood, auto parts, machinery, waste or discarded materials in such quantity, quality and arrangement that a driver cannot be properly seated in the vehicle;

(vii) Lying on the ground (upside down, on its side, or at another extreme angle), sitting on blocks or suspended in the air by any other method; and/or

(viii) General environment in which the vehicle sits, including, but not limited to, vegetation that has grown up around, in or through the vehicle, the collection of pools of water in the vehicle, and the accumulation of other garbage or debris around the vehicle.

(b) "Vehicle" means any machine propelled by power other than human power, designed to travel along the ground by the use of wheels, treads, self-laying tracks, runners, slides or skids, including, but not limited to, automobiles, trucks, motorcycles, motor scooters, go-carts, campers, tractors, trailers, tractor-trailers, buggies, wagons, earth moving equipment and any part of the same.

(4) "Person" means any natural person, or any firm, partnership, association, corporation or other organization of any kind and description.

(5) "Private property" means and includes all property that is not public property, regardless of how the property is zoned or used.

(6) "Traveled portion of any public street or highway" means the width of the street from curb to curb, or where there are no curbs, the entire width of the paved portion of the street, or where the street is unpaved, the entire width of the street in which vehicles ordinarily use for travel. (1997 Code, § 13-401)

**13-402. Violations--a civil offense.** It shall be unlawful and a civil offense for a person to:

(1) Park, or in any other manner place and leave unattended on the traveled portion of any public street or highway, a junk vehicle for any period of time, even if the owner or operator of the vehicle did not intend to permanently desert or forsake the vehicle.

(2) Park, or in any other manner place and leave unattended on the untraveled portion of any street or highway, or upon any other public property, a junk vehicle for more than forty-eight (48) continuous hours, even if the owner or operator of the vehicle did not intend to permanently desert or forsake the vehicle.

(3) Park, store, keep and/or maintain on private property a junk vehicle for more than three (3) days. (1997 Code, § 13-402)

**13-403. Exceptions.** (1) It shall be permissible for a person to park, store, keep and maintain a junked vehicle on private property under the following conditions:

(a) The junk vehicle is completely enclosed within a building where neither the vehicle nor any part of it is visible from the street or from any other abutting property. However, this exception shall not exempt the owner or person in possession of the property from any zoning, building, housing, property maintenance, and other regulations governing the building in which such vehicle is enclosed.

(b) The junk vehicle is parked or stored on property lawfully zoned for business engaged in wrecking, junking or repairing vehicles. However, this exception shall not exempt the owner or operator of any such business from any other zoning, building, fencing, property maintenance and other regulations governing business engaged in wrecking, junking or repairing vehicles.

(c) No person shall park, store, keep and maintain on private property a junk vehicle for any period of time if it poses an immediate threat to the health and safety of the citizens of the city.

(2) Hobby cars, if stored outside, shall be limited to two (2) vehicles on the property and stored in one (1) of the following methods or a combination thereof:

(a) Inside an enclosed building.

(b) Behind a metal or wood privacy fence where neither the vehicle nor any part of it is visible from the street or the abutting property. The fence must be in compliance with all current zoning regulations.

(c) Vehicles may be stored inside an enclosed vehicle trailer.

(d) Storage and maintenance areas must not create excessive noise or the accumulation of spare vehicle parts about the property.

(e) Vehicle fluids must be properly handled in accordance with all city, state, EPA and stormwater regulations. (1997 Code, § 13-403)

**13-404. Enforcement.** Pursuant to *Tennessee Code Annotated*, § 7-63-101, the building and codes inspector and the property standards official are authorized to issue ordinance summons for violations of this chapter on private property. The building and codes inspector, and/or the property standards official, shall, upon the complaint of any citizen, or acting on his own initiative, investigate complaints of junked vehicles on private property. If, after such investigation, the building and codes inspector, or the property standards official, finds a junked vehicle or hobby car in violation of this chapter on private property, he shall issue an ordinance summons. The ordinance summons shall be served upon the owner or owners of the property, or upon the person or persons apparently in lawful possession of the property, and shall give notice to the same to appear and answer charges against him or them. If the offender

refuses to sign the agreement to appear, the building and codes inspector and/or the property standards official may:

- (1) Request a city judge to issue a summons; or
- (2) Request a police officer to witness the violation. (1997 Code, § 13-404, modified)

**13-405. Violations and penalty.** Any person violating this chapter shall be subject to a civil penalty of fifty dollars (\$50.00) plus court costs for each separate violation of this chapter. Each day the violation of this chapter continues, it shall constitute a separate violation. (1997 Code, § 13-405)

## CHAPTER 5

### RESIDENTIAL RENTAL REGULATIONS

#### SECTION

- 13-501. Registration required.
- 13-502. Registration application.
- 13-503. Inspection required.
- 13-504. Property maintenance.
- 13-505. Frequency of inspections.
- 13-506. Registration certificate required.
- 13-507. Certificate registration date.
- 13-508. Certificate transferability.
- 13-509. Requests for additional inspections.
- 13-510. Exemptions.
- 13-511. Records.
- 13-512. Other actions, prosecutions, court cases.
- 13-513. Nuisances, injunction.
- 13-514. Enforcement.
- 13-515. Violations and penalty.

**13-501. Registration required.** All owners of residential property within the city shall register each rental unit owned or operated within the city. An owner of residential property shall file a registration application with the City of Greenbrier within thirty (30) days after assuming ownership or control of the property, or after altering the number or size of rental units at a previously registered property. All owners of residential rental property at the time of incorporation by ordinance of this chapter within the Greenbrier Municipal Code shall file a registration application for their property within sixty (60) days after the effective date of said ordinance. The owner shall be responsible for all sub-leasing of his rental property. (1997 Code, § 13-501)

**13-502. Registration application.**<sup>1</sup> Registration shall be made upon forms furnished by the City of Greenbrier and shall specifically require the following minimum information:

- (1) Name, address, and telephone number of property owner.
- (2) The street address of the rental property.
- (3) The name, address, and telephone number of the person authorized to make or order repairs or services to the property, if the person is different from the owner or local manager.

---

<sup>1</sup>The rental property registration application for the City of Greenbrier, Exhibit A, is available to view at the office of the recorder.

(4) The square footage of living rooms, dining rooms, and bedrooms to determine occupancy load. (1997 Code, § 13-502)

**13-503. Inspection required.** All residential rental units shall be inspected yearly by the city for compliance with this chapter and all other applicable laws. (1997 Code, § 13-503)

**13-504. Property maintenance.** All residential rental units shall comply with the *International Property Maintenance Code*, adopted by the city. (1997 Code, § 13-504)

**13-505. Frequency of inspections.** All residential rental units subject to this chapter shall be inspected yearly; but nothing shall preclude the inspection of the residential rental unit upon a complaint being made under the provisions of other city ordinances or state laws. (1997 Code, § 13-505)

**13-506. Registration certificate required.** No person shall rent or allow for the occupancy of any residential rental unit that is subject to this chapter without having a valid, current certificate of registration<sup>1</sup> for that unit. The certificate shall be kept on the rental property at all times and shall state the maximum number of residents allowed to occupy the unit. The maximum occupancy number shall be established or confirmed by the city codes enforcement officer using standards contained within the property maintenance code. (1997 Code, § 13-506)

**13-507. Certificate registration date.** The certificate of registration issued pursuant to this chapter shall expire three (3) years from the date of issuance. The expiration date shall be prominently displayed on its face. (1997 Code, § 13-507)

**13-508. Certificate transferability.** A certificate of registration issued shall not be transferred to succeeding owners. Upon a transfer of ownership of the property, a new certificate of registration shall be required. (1997 Code, § 13-508)

**13-509. Requests for additional inspections.** The owner or designated property manager of any residential rental unit that is subject to this chapter may request additional inspections of the rental unit at any time. (1997 Code, § 13-509)

**13-510. Exemptions.** This chapter shall not apply to the following:

---

<sup>1</sup>The rental property registrations certificate for the City of Greenbrier, Exhibit B, is available to view at the office of the recorder.

- (1) Residential rental units owned and operated by any governmental agency;
- (2) Residential rental units licensed and inspected by the state;
- (3) Hotels that do not rent to permanent residents, and nursing homes or assisted living or retirement facilities; and
- (4) Apartment complexes that already keep the required registration information on file and accessible have more than four (4) units and have on-site property managers. (1997 Code, § 13-510)

**13-511. Records.** All records, files, and documents pertaining to the rental registration and rental unit inspection program shall be maintained by the City of Greenbrier and made available to the public as allowed or required by state law or city ordinance. (1997 Code, § 13-511)

**13-512. Other actions, prosecutions, court cases.** Nothing in this chapter shall prevent the city from taking action under any of its fire codes, building codes, technical codes, zoning ordinances, or other safety and health codes, ordinances or laws for violations thereof to seek injunctive relief or criminal prosecution of such violation in accordance with the terms and conditions or particular code, ordinance or law under which the city would proceed against the property owner, designated property manager, or occupant of any residential unit covered by this registration and inspection chapter. (1997 Code, § 13-512)

**13-513. Nuisances, injunction.** Any violation of this chapter is hereby declared a nuisance. In addition to any other relief provided by this chapter, the city attorney may apply to a court of competent jurisdiction for an injunction to prohibit the continuation of any violation of this chapter. Such application for relief may include seeking a temporary restraining order, temporary injunction, and permanent injunction. (1997 Code, § 13-513)

**13-514. Enforcement.** Pursuant to *Tennessee Code Annotated*, § 7-63-101, the building and code inspector and/or the property standards officer are authorized to issue ordinance summons for violations of this chapter on private property. The building and codes inspection and/or the property standards officer shall, upon the complaint of any citizen, or acting on their own initiative, investigate complaints of property maintenance codes on private property. If, after such investigation, the building and codes inspector and/or the property standards officer find a violation, they shall issue an ordinance summons. The chapter summons shall be served upon the owner or owners of the property, or upon the person or persons apparently in lawful possession of the property, and shall give notice to the same to appear and answer charges against him or them. If the offender refused to sign the agreement to appear, the building and codes inspector, and/or the property standards officer, may:

- (1) Request a city judge to issue a summons; or
- (2) Request a police officer to witness the violation.

The police officer who witnesses the violation may issue the offender a citation, as authorized by *Tennessee Code Annotated*, §§ 7-63-101, *et seq.* In addition to other penalties, the building and codes inspector and/or the property standards officer may order the discontinuance of utility service to any building in violation of this chapter. This may only be done when the owner of the property has been given at least ten (10) days notice by certified mail or posting of the violation at the premises and the owner has failed to make substantial progress toward correcting the violations. (1997 Code, § 13-514)

**13-515. Violations and penalty.** Any person violating this chapter shall be subject to a civil penalty of fifty dollars (\$50.00) plus court costs for each separate violation of this chapter. Each day the violation of this chapter continues, it shall constitute a separate violation. (1997 Code, § 13-515)



## CHAPTER 6

### SLUM CLEARANCE

#### SECTION

- 13-601. Findings of board.
- 13-602. Definitions.
- 13-603. "Public officer" designated; powers.
- 13-604. Initiation of proceedings; hearings.
- 13-605. Orders to owners of unfit structures.
- 13-606. When public officer may repair, etc.
- 13-607. When public officer may remove or demolish.
- 13-608. Lien for expenses; sale of salvaged materials; other powers not limited.
- 13-609. Basis for a finding of unfitness.
- 13-610. Service of complaints or orders.
- 13-611. Enjoining enforcement of orders.
- 13-612. Additional powers of public officer.
- 13-613. Powers conferred are supplemental.
- 13-614. Structures unfit for human habitation deemed unlawful.

**13-601. Findings of board.** Pursuant to *Tennessee Code Annotated*, §§ 13-21-101, *et seq.*, the board finds that there exists in the city 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 dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the city. (1997 Code, § 13-601)

**13-602. Definitions.** (1) "Dwelling" means any building or structure, or part thereof, used and occupied for human occupation or use, or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.

(2) "Governing body" means the board of mayor and aldermen charged with governing the city.

(3) "Municipality" means the City of Greenbrier, Tennessee, and the areas encompassed within existing city limits or as hereafter annexed.

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

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

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

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

(8) "Public officer" means the officer or officers who are authorized by this chapter to exercise the powers prescribed herein and pursuant to *Tennessee Code Annotated*, §§ 13-21-101, *et seq.*

(9) "Structure" means any dwelling or place of public accommodation, or vacant building or structure suitable as a dwelling or place of public accommodation. (1997 Code, § 13-602)

**13-603. "Public officer" designated; powers.** There is hereby designated and appointed a "public officer" to be the building official of the city, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the building official. (1997 Code, § 13-603)

**13-604. Initiation of proceedings; hearings.** Whenever a petition is filed with the public officer by a public authority or by at least five (5) residents of the city charging that any structure is unfit for human occupancy or use, or whenever it appears to the public officer (on his own motion) that any structure is unfit for human occupation or use, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of, and parties in interest of, such structure a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer (or his designated agent) at a place therein fixed, not less than ten (10) days, nor more than thirty (30) days, after the service of the complaint; and the owner and parties in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the time and place fixed in the complaint; and the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer. (1997 Code, § 13-604)

**13-605. Orders to owners of unfit structures.** If, after such notice and hearing as provided for in the preceding section, the public officer determines that the structure under consideration is unfit for human occupation or use, he shall state, in writing, his finding of fact in support of such determination, and shall issue and cause to be served upon the owner thereof an order:

(1) If the repair, alteration or improvement of the structure can be made at a reasonable cost in relation to the value of the structure (not exceeding fifty percent (50%) of the reasonable value), requiring the owner, within the time

specified in the order, to repair, alter, or improve such structure to render it fit for human occupation or use, or to vacate and close the structure for human occupation or use; or

(2) If the repair, alteration or improvement of said structure cannot be made at a reasonable cost in relation to the value of the structure (not to exceed fifty percent (50%) of the value of the premises), requiring the owner within the time specified in the order to remove or demolish such structure. (1997 Code, § 13-605)

**13-606. When public officer may repair, etc.** If the owner fails to comply with the order to repair, alter, or improve, or to vacate and close the structure as specified in the preceding section hereof, the public officer may cause such structure to be repaired, altered, or improved, or to be vacated and closed; and the public officer may cause to be posted on the main entrance of any dwelling so closed a placard with the following words: "This building is unfit for human occupation or use. The use or occupation of this building for human occupation or use is prohibited and unlawful." (1997 Code, § 13-606)

**13-607. When public officer may remove or demolish.** If the owner fails to comply with an order, as specified above, to remove or demolish the structure, the public officer may cause such structure to be removed and demolished. (1997 Code, § 13-607)

**13-608. Lien for expenses; sale of salvaged materials; other powers not limited.** The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer shall be assessed against the owner of the property, and shall upon the filing of the notice with the Office of the Register of Deeds of Robertson 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 city may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The city may bring one (1) action for debt against more than one (1) or all of the owners of properties against whom said costs have been assessed and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. If the structure is removed or demolished by the public officer, he shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the

removal or demolition, and any balance remaining shall be deposited in the Chancery Court of Robertson County by the public officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the person found to be entitled thereto by final order or decree of such court. Nothing in this section shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise. (1997 Code, § 13-608)

**13-609. Basis for a finding of unfitness.** The public officer defined herein shall have the power and may determine that a structure is unfit for human occupation or use if he finds that conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants or users of such structure, the occupants or users of neighboring structures or other residents of the City of Greenbrier. Such conditions may include the following (without limiting the generality of the foregoing): defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; or uncleanliness. (1997 Code, § 13-609)

**13-610. Service of complaints or orders.** Complaints or orders issued by the public officer pursuant to this chapter shall be served upon persons, either personally or by registered mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper printed and published in the city. In addition, a copy of such complaint or order shall be posted in a conspicuous place on premises affected by the complaint or order. A copy of such complaint or order shall also be filed for record in the Register's Office of Robertson County, Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law. (1997 Code, § 13-610)

**13-611. Enjoining enforcement of orders.** Any person affected by an order issued by the public officer served pursuant to this chapter may file a bill in chancery court for an injunction restraining the public officer from carrying out the provisions of the order, and the court may, upon the filing of such suit, issue a temporary injunction restraining the public officer pending the final disposition of the cause; provided, however, that within sixty (60) days after the posting and service of the order of the public officer, such person shall file such bill in the court. The remedy provided herein shall be the exclusive remedy and no person affected by an order of the public officer shall be entitled to recover any damages for action taken pursuant to any order of the public officer, or

because of noncompliance by such person with any order of the public officer. (1997 Code, § 13-611)

**13-612. Additional powers of public officer.** The public officer, in order to carry out and effectuate the purposes and provisions of this chapter, shall have the following powers in addition to those otherwise granted herein:

(1) To investigate conditions of the structures in the city in order to determine which structures therein are unfit for human occupation or use;

(2) To administer oaths, affirmations, examine witnesses and receive evidence;

(3) To enter upon premises for the purpose of making examination; provided that such entry shall be made in such manner as to cause the least possible inconvenience to the persons in possession and in compliance with legal requirements for gaining entry;

(4) To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of this chapter; and

(5) To delegate any of his functions and powers under this chapter to such officers and agents as he may designate. (1997 Code, § 13-612)

**13-613. Powers conferred are supplemental.** This chapter shall not be construed to abrogate or impair the powers of the city with regard to the enforcement of the provisions of its charter or any other ordinances or regulations, nor to prevent or punish violations thereof, and the powers conferred by this chapter shall be in addition and supplemental to the powers conferred by the charter and other laws. (1997 Code, § 13-613)

**13-614. Structures unfit for human habitation deemed unlawful.** It shall be unlawful for any owner of record to create, maintain or permit to be maintained in the city structures which are unfit for human occupation 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 dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the city.

Violations of this section shall subject the offender to a penalty of fifty dollars (\$50.00) for each offense. Each day a violation is allowed to continue shall constitute a separate offense. (1997 Code, § 13-614)

## TITLE 14

### ZONING AND LAND USE CONTROL

#### CHAPTER

1. MUNICIPAL PLANNING COMMISSION.
2. ZONING ORDINANCE.
3. FLOOD DAMAGE PREVENTION ORDINANCE.
4. SUBDIVISION REGULATIONS.

#### CHAPTER 1

### MUNICIPAL PLANNING COMMISSION<sup>1</sup>

#### SECTION

- 14-101. Creation and membership.
- 14-102. Organization, powers, duties, etc.
- 14-103. Compensation for members.

**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 board of mayor and aldermen selected by the board of mayor and aldermen; the other five (5) members shall be appointed by the mayor. All members of the planning commission shall serve as such without compensation. Except for the initial appointments, the terms of the five (5) members appointed by the mayor shall be for five (5) years each. The five (5) members first appointed shall be appointed for terms of one (1), two (2), three (3), four (4), and five (5) years respectively so that the term of one (1) member expires each year. The terms of the mayor and the member selected by the board of mayor and aldermen shall run concurrently with their terms of office. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor, who shall also have the authority to remove any appointive member at his will and pleasure.

---

<sup>1</sup>Fees for the review of subdivision plats to be collected by the City of Greenbrier Building Inspector; and

The Greenbrier Building Inspector and/or the Greenbrier Municipal Planning Commission is hereby empowered and directed to charge and collect at the time a request is made for these particular services.

**14-102. Organization, powers, duties, etc.** The planning commission shall be organized and shall carry out its powers, functions, and duties in accordance with all applicable provisions of *Tennessee Code Annotated*, title 13.

**14-103. Compensation for members.** The compensation for members of the planning commission and the board of zoning appeals shall be fifty dollars (\$50.00) per meeting, not to exceed fifty dollars (\$50.00) per month. (1997 Code, § 14-103)

**CHAPTER 2**

**ZONING ORDINANCE**<sup>1</sup>

**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 Greenbrier shall be governed by Ordinance #90-3, titled "Zoning Ordinance, Greenbrier, Tennessee," and any amendments thereto.<sup>2</sup>

---

<sup>1</sup>The Zoning Ordinance for the City of Greenbrier (Ord. #90-3), and any amendments thereto, are published as separate documents and are of record in the office of the city recorder.

<sup>2</sup>The Design Review Manual (Ord. #21-03), and any amendments thereto, are published as separate documents and are of record in the office of the city recorder.



## CHAPTER 3

### FLOOD DAMAGE PREVENTION ORDINANCE

#### SECTION

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

**14-301. Statutory authorization, findings of fact, purpose and objectives.** (1) Statutory authorization. The Legislature of the State of Tennessee has, in *Tennessee Code Annotated*, §§ 13-7-201 to 13-7-210, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City of Greenbrier, Tennessee, Mayor and the Greenbrier Board of Aldermen, do ordain as follows.

(2) Findings of fact. (a) The City of Greenbrier, Tennessee, Mayor and its Board of Aldermen wishes to maintain eligibility in the National Flood Insurance Program (NFIP) and in order to do so must meet the NFIP regulations found in 44 CFR, ch. 1, § 60.3.

(b) Areas of the City of Greenbrier, Tennessee are subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(c) Flood losses are caused by the cumulative effect of obstructions in floodplains, causing increases in flood heights and velocities; by uses in flood hazard areas which are vulnerable to floods; or construction which is inadequately elevated, floodproofed, or otherwise unprotected from flood damages.

(3) Statement of purpose. It is the purpose of this chapter to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas. This chapter is designed to:

(a) Restrict or prohibit uses which are vulnerable to flooding or erosion hazards, or which result in damaging increases in erosion, flood heights, or velocities;

(b) Require that uses vulnerable to floods, including community facilities, be protected against flood damage at the time of initial construction;

(c) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;

(d) Control filling, grading, dredging and other development which may increase flood damage or erosion; and

(e) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

(4) Objectives. The objectives of this chapter are:

(a) To protect human life, health, safety and property;

(b) To minimize expenditure of public funds for costly flood control projects;

(c) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(d) To minimize prolonged business interruptions;

(e) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodprone areas;

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

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

(h) To maintain eligibility for participation in the NFIP. (Ord. #20-16, Jan. 2021)

**14-302. Definitions.** Unless specifically defined below, words or phrases used in this chapter shall be interpreted as to give them the meaning they have in common usage and to give this chapter its most reasonable application given its stated purpose and objectives.

(1) "Accessory structure" means a subordinate structure to the principal structure on the same lot and, for the purpose of this chapter, shall conform to the following:

(a) Accessory structures shall only be used for parking of vehicles and storage.

(b) Accessory structures shall be designed to have low flood damage potential.

(c) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.

(d) Accessory structures shall be firmly anchored to prevent flotation, collapse, and lateral movement, which otherwise may result in damage to other structures.

(e) Utilities and service facilities such as electrical and heating equipment shall be elevated or otherwise protected from intrusion of floodwaters.

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

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

(4) "Area of shallow flooding" means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with one percent (1%) or greater annual chance of flooding to an average depth of one to three feet (1' to 3') where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate; and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

(5) "Area of special flood-related erosion hazard" means the land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area in preparation for publication of the FIRM, Zone E may be further refined.

(6) "Area of special flood hazard." See "Special flood hazard area."

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

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

(9) "Building." See "Structure."

(10) "Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or storage of equipment or materials.

(11) "Elevated building" means a non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwater, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

(12) "Emergency flood insurance program" or "emergency program" means the program as implemented on an emergency basis in accordance with the Clean Water Act, 33 U.S.C. §§ 1251, *et seq.* It is intended as a program to provide a first layer amount of insurance on all insurable structures before the effective date of the initial FIRM.

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

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

(15) "Existing construction" means any structure for which the "start of construction" commenced before the effective date of the initial floodplain management code or ordinance adopted by the community as a basis for that community's participation in the NFIP.

(16) "Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management code or ordinance adopted by the community as a basis for that community's participation in the NFIP.

(17) "Existing structures." See "Existing construction."

(18) "Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

(19) "Flood" or "flooding" means:

(a) A general and temporary condition of partial or complete inundation of normally dry land areas from:

(i) The overflow of inland or tidal waters.

(ii) The unusual and rapid accumulation or runoff of surface waters from any source.

(iii) Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in subsection (19)(a)(ii) above and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

(b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in subsection (19)(a)(i) above.

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

(21) "Flood elevation study" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) or flood-related erosion hazards.

(22) "Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by FEMA, where the boundaries of areas of special flood hazard have been designated as Zone A.

(23) "Flood Insurance Rate Map (FIRM)" means an official map of a community, issued by FEMA, delineating the areas of special flood hazard or the risk premium zones applicable to the community.

(24) "Flood insurance study" means the official report provided by FEMA, evaluating flood hazards and containing flood profiles and water surface elevation of the base flood.

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

(26) "Floodplain management" means the operation of an overall program of corrective and preventive measures for reducing flood damage, including, but not limited to, emergency preparedness plans, flood control works and floodplain management regulations.

(27) "Flood protection system" means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

(28) "Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities and structures and their contents.

(29) "Flood-related erosion" means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood, or by some similarly unusual and unforeseeable event which results in flooding.

(30) "Flood-related erosion area" or "flood-related erosion prone area" means a land area adjoining the shore of a lake or other body of water which, due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

(31) "Flood-related erosion area management" means the operation of an overall program of corrective and preventive measures for reducing

flood-related erosion damage, including, but not limited to, emergency preparedness plans, flood-related erosion control works and floodplain management regulations.

(32) "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

(33) "Freeboard" means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert openings, and the hydrological effect of urbanization of the watershed.

(34) "Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

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

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

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

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

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

(d) Individually listed on the City of Greenbrier, Tennessee inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:

(i) By the approved Tennessee program as determined by the Secretary of the Interior; or

(ii) Directly by the Secretary of the Interior.

(37) "Levee" means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

(38) "Levee system" means a flood protection system which consists of a levee or levees and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

(39) "Lowest floor" means the lowest floor of the lowest enclosed area, including a basement. An unfinished or flood resistant enclosure used solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

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

(41) "Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

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

(43) "Mean sea level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For the purposes of this chapter, the term is synonymous with the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

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

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

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

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

(48) "100-year flood." See "Base flood."

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

(50) "Reasonably safe from flooding" means base floodwaters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed structures.

(51) "Recreational vehicle" means a vehicle which is:

- (a) Built on a single chassis;
- (b) Four hundred (400) square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck; and
- (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

(52) "Regulatory floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

(53) "Regulatory flood protection elevation" means the base flood elevation plus the freeboard. In special flood hazard areas where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus one foot (1'). In special flood hazard areas where no BFE has been established, this elevation shall be at least three feet (3') above the highest adjacent grade.

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

(55) "Special flood hazard area" means the land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE or A99.

(56) "Special hazard area" means an area having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, or AH.

(57) "Start of construction" means and includes substantial improvement, and means the date the building permit was issued; provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; and includes the placement of a manufactured home on a foundation. Permanent construction



does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(58) "State coordinating agency" means the Tennessee Emergency Management Agency, State NFIP Office, as designated by the Governor of the State of Tennessee at the request of FEMA to assist in the implementation of the NFIP for the state.

(59) "Structure" means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

(60) "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

(61) "Substantial improvement" means any reconstruction, rehabilitation, addition, alteration or other improvement of a structure in which the cost equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the initial improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The market value of the structure should be:

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

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

The term does not, however, include either:

(a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications, which have been pre-identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions and not solely triggered by an improvement or repair project; or

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

(62) "Substantially improved existing manufactured home parks or subdivisions" means where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty percent

(50%) of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

(63) "Variance" means a grant of relief from the requirements of this chapter.

(64) "Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certification, or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.

(65) "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, where specified, of floods of various magnitudes and frequencies in the floodplains of riverine areas. (Ord. #20-16, Jan. 2021, modified)

**14-303. General provisions.** (1) Application. This chapter shall apply to all areas within the incorporated area of the City of Greenbrier, Tennessee.

(2) Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified on the City of Greenbrier, Tennessee, as identified by FEMA, and in its Flood Insurance Study (FIS) dated February 26, 2021 and Flood Insurance Rate Map (FIRM), community panel number 47147C0380C dated April 16, 2008, and 47147C0390D and 47147C0395D, dated February 26, 2021, along with all supporting technical data, are adopted by reference and declared to be a part of this chapter.

(3) Requirement for development permit. A development permit shall be required in conformity with this chapter prior to the commencement of any development activities.

(4) Compliance. No land, structure or use shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable regulations.

(5) Abrogation and greater restrictions. This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants or deed restrictions. However, where this chapter conflicts or overlaps with another regulatory instrument, whichever imposes the more stringent restrictions shall prevail.

(6) Interpretation. In the interpretation and application of this chapter, all provisions shall be:

- (a) Considered as minimum requirements;
- (b) Liberally construed in favor of the governing body; and
- (c) Deemed neither to limit nor repeal any other powers granted under Tennessee statutes.

(7) Warning and disclaimer of liability. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will

occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City of Greenbrier, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

(8) Penalties for violation. Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Any person who violates this chapter or fails to comply with any of its requirements shall, upon adjudication therefor, be fined as prescribed by Tennessee statutes, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Greenbrier, Tennessee from taking such other lawful actions to prevent or remedy any violation. (Ord. #20-16, Jan. 2021)

**14-304. Administration.** (1) Designation of ordinance administrator. The codes inspector is hereby appointed as the administrator to implement the provisions of this chapter.

(2) Permit procedures. Application for a development permit shall be made to the administrator on forms furnished by the community prior to any development activities. The development permit may include, but is not limited to, the following: plans in duplicate drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities. Specifically, the following information is required:

(a) Application stage.

(i) Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all buildings where base flood elevations are available, or to certain height above the highest adjacent grade when applicable under this chapter.

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

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

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

(v) A final finished construction elevation certificate (FEMA Form 086-0-33) is required after construction is completed and prior to certificate of compliance/occupancy issuance. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities.

(vi) In order to determine if improvements or damage meet the substantial improvement or substantial damage criteria, the applicant shall provide to the floodplain administrator a detailed cost to repair all damages and/or cost of improvements which includes the complete costs associated with all types of work necessary to completely repair or improve a building. These include the costs of all materials, labor, and other items necessary to perform the proposed work. These must be in the form of:

(A) An itemized costs of materials, and labor, or estimates of materials and labor that are prepared by licensed contractors or professional construction cost estimators.

(B) Building valuation tables published by building code organizations and cost-estimating manuals and tools available from professional building cost-estimating services.

(C) A qualified estimate of costs that is prepared by the local official using professional judgement and knowledge of local and regional construction costs.

(D) A detailed cost estimate provided and prepared by the building owner. This must include as much supporting documentation as possible (such as pricing information from lumber companies, plumbing and electrical suppliers, etc.). In addition, the estimate must include the value of labor, including the value of the owner's labor.

(b) Construction stage. Within AE Zones, where base flood elevation data is available, any lowest floor certification made relative to mean sea level shall be prepared by, or under the direct supervision of, a Tennessee registered land surveyor and certified by same. The administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a nonresidential building, said certification shall be prepared by, or under, the direct supervision of a Tennessee registered professional engineer or architect and certified by same.

Within approximate A Zones, where base flood elevation data is not available, the elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest

adjacent grade. The administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a nonresidential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

For all new construction and substantial improvements, the permit holder shall provide to the administrator an as-built certification of the lowest floor elevation or floodproofing level upon the completion of the lowest floor or floodproofing.

Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The administrator shall review the above-referenced certification data. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being allowed to proceed. Failure to submit the certification, or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

(c) Finished construction stage. For all new construction and substantial improvements, the permit holder shall provide to the administrator a final finished construction elevation certificate (FEMA Form 086-0-33). A final finished construction elevation certificate is required after construction is completed and prior to certificate of compliance/occupancy issuance. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The administrator will keep the certificate on file in perpetuity.

(3) Duties and responsibilities of the administrator. Duties of the administrator shall include, but not be limited to, the following:

(a) Review all development permits to assure that the permit requirements of this chapter have been satisfied, and that proposed building sites will be reasonably safe from flooding.

(b) Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1344.

(c) Notify adjacent communities and the Tennessee Emergency Management Agency, State NFIP Office, prior to any alteration or relocation of a watercourse and submit evidence of such notification to FEMA.

(d) For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to FEMA to ensure accuracy of community FIRM's through the letter of map revision process.

(e) Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.

(f) Record the elevation, in relation to mean sea level or the highest adjacent grade, where applicable, of the lowest floor (including basement) of all new and substantially improved buildings, in accordance with subsection (2) above.

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

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

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

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

(k) Maintain all records pertaining to the provisions of this chapter in the office of the administrator and shall be open for public inspection. Permits issued under the provisions of this chapter shall be maintained in a separate file or marked for expedited retrieval within combined files.

(l) A final finished construction elevation certificate (FEMA Form 086-0-33) is required after construction is completed and prior to certificate of compliance/occupancy issuance. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to certificate of compliance/occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a certificate of compliance/occupancy. The finished construction elevation certificate certifier shall provide at least two (2) photographs showing the front and rear of the building

taken within ninety (90) days from the date of certification. The photographs must be taken with views confirming the building description and diagram number provided in subsection (1) above. To the extent possible, these photographs should show the entire building including foundation. If the building has split-level or multi-level areas, provide at least two (2) additional photographs showing side views of the building. In addition, when applicable, provide a photograph of the foundation showing a representative example of the flood openings or vents. All photographs must be in color and measure at least three inches by three inches (3" x 3"). Digital photographs are acceptable. (Ord. #20-16, Jan. 2021, modified)

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

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

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

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

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

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

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

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

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

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

(j) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provision of this chapter shall be undertaken only if said non-conformity is not further extended or replaced;

(k) All new construction and substantial improvement proposals shall provide copies of all necessary federal and state permits, including section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. § 1344;

(l) All subdivision proposals and other proposed new development proposals shall meet the standards of subsection (2) below;

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

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

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

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

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

(b) Nonresidential structures. In AE Zones where base flood elevation data is available, new construction and substantial improvement of any commercial, industrial, or nonresidential building



shall have the lowest floor, including basement, elevated or floodproofed to no lower than one foot (1') above the level of the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

In approximate A Zones where base flood elevations have not been established and where alternative data is not available, new construction and substantial improvement of any commercial, industrial, or nonresidential building shall have the lowest floor, including basement, elevated or floodproofed to no lower than three feet (3') above the highest adjacent grade (as defined in § 14-302). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

Nonresidential buildings located in all A Zones may be floodproofed in lieu of being elevated; provided that all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the administrator as set forth in this subsection (2).

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

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

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

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

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

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

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

(d) Standards for manufactured homes and recreational vehicles.

(i) All manufactured homes placed, or substantially improved, on:

(A) Individual lots or parcels;

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

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

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

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

(B) In approximate A Zones without base flood elevations, the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least equivalent strength) that are at least three feet (3') in height above the highest adjacent grade (as defined in § 14-302).

(iii) Any manufactured home, which has incurred "substantial damage" as the result of a flood, must meet the standards of subsection (1) above and this subsection (2).

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

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

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

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

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

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

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

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

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

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

(3) Standards for special flood hazard areas with established base flood elevations and with floodways designated. Located within the special flood hazard areas, established in § 14-303(2), are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights and velocities. Therefore, the following provisions shall apply:

(a) Encroachments are prohibited, including fill, new construction, substantial improvements or other development within the adopted regulatory floodway. Development may be permitted; however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the encroachment shall not result in any increase in flood levels or floodway widths during a base flood discharge. A registered professional engineer must provide supporting technical data and certification thereof;

(b) A community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations; provided that the applicant first applies for a Conditional Letter of Map Revision (CLOMR) and floodway revision, fulfills the requirements for such revisions as established under the provisions of § 65.12, and receives the approval of FEMA; and

(c) Only if subsections (3)(a) to (3)(b) above are satisfied, then any new construction or substantial improvement shall comply with all other applicable flood hazard reduction provisions of subsections (1) and (2) above.

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

(a) Require until a regulatory floodway is designated, that no new construction, substantial improvement, or other development, including fill shall be permitted within Zone AE on the community's FIRM, unless it is demonstrated through hydrologic and hydraulic analyses performed that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the community;

(b) A community may permit encroachments within Zones AE on the community's FIRM that would result in an increase in the water surface elevation of the base flood; provided that the applicant first applies for a Conditional Letter of Map Revision (CLOMR) and floodway revision, fulfills the requirements for such revisions as established under the provisions of § 65.12, and receives the approval of FEMA; and

(c) Only if subsections (4)(a) to (4)(b) above are satisfied then any new construction or substantial improvement shall comply with all other applicable flood hazard reduction provisions of subsections (1) and (2) above.

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

(a) The administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from any federal, state, or other sources, including data developed as a result of these regulations (see subsection (5)(b) below), as criteria for requiring that new construction, substantial improvements, or other development in approximate A Zones meet the requirements of subsections (1) and (2) above;

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

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

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

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

(6) Standards for areas of shallow flooding (Zone AO). Located within the special flood hazard areas established in § 14-303(2), are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet (1' to 3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to subsections (1) and (2) above, all new construction and substantial improvements shall meet the following requirements:

(a) The lowest floor (including basement) shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of one foot (1') above the highest adjacent grade; or at least three feet (3') above the highest adjacent grade, if no depth number is specified.

(b) Nonresidential structures may, in lieu of elevation, be floodproofed to the same level as required in subsection (6)(a) above so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable

to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with § 14-304(2)(a)(iii) and subsection (2)(b) above.

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

(7) Standards for areas of shallow flooding (Zone AH). Located within the special flood hazard areas established in § 14-303(2) are areas designated as shallow flooding areas. These areas are subject to inundation by one percent (1%) annual-chance shallow flooding (usually areas of ponding) where average depths are one to three feet (1' to 3'). Base flood elevations that are derived from detailed hydraulic analyses are shown in this zone. In addition to meeting the requirements of subsections (1) and (2) above, all new construction and substantial improvements shall meet the following requirements: Adequate drainage paths shall be provided around structures on slopes to guide floodwaters around and away from proposed structures.

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

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

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

(b) When a new flood hazard risk zone and base flood elevation and floodway data is available, new construction and substantial improvements shall meet the standards established in accordance with § 14-304 and this section. (Ord. #20-16, Jan. 2021, modified)

**14-306. Variance procedures.** (1) Municipal board of zoning appeals.

(a) Authority. The City of Greenbrier, Tennessee Municipal Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this chapter.

(b) Procedure. Meetings of the municipal board of zoning appeals shall be held at such times as the board shall determine. All meetings of the municipal board of zoning appeals shall be open to the public. The municipal board of zoning appeals shall adopt rules of procedure and shall keep records of applications and actions thereof, which shall be a public record. Compensation of the members of the municipal board of zoning appeals shall be set by the board of aldermen.

(c) Appeals: how taken. An appeal to the municipal board of zoning appeals may be taken by any person, firm or corporation aggrieved, or by any governmental officer, department, or bureau affected, by any decision of the administrator based in whole, or in part, upon the provisions of this chapter. Such appeal shall be taken by filing with the municipal board of zoning appeals a notice of appeal, specifying the grounds thereof. In all cases where an appeal is made by a property owner or other interested party, a fee of fifty dollars (\$50.00) for the cost of publishing a notice of such hearings shall be paid by the appellant. The administrator shall transmit to the municipal board of zoning appeals all papers constituting the record upon which the appeal action was taken. The municipal board of zoning appeals shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to parties in interest and decide the same within a reasonable time which shall not be more than thirty (30) days from the date of the hearing. At the hearing, any person or party may appear and be heard in person, or by agent or by attorney.

(d) Powers. The municipal board of zoning appeals shall have the following powers:

(i) Administrative review. To hear and decide appeals where it is alleged by the applicant that there is error in any order, requirement, permit, decision, determination, or refusal made by the administrator or other administrative official in carrying out or enforcement of any provisions of this chapter.

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

(A) The City of Greenbrier, Tennessee Municipal Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this chapter.

(B) Variances may be issued for the repair or rehabilitation of historic structures as defined herein, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary deviation from the requirements of this chapter

to preserve the historic character and design of the structure.

(C) In passing upon such applications, the municipal board of zoning appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and:

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

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

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

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

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

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

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

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

(9) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

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

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

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



(2) Conditions for variances. (a) Variances shall be issued upon a determination that the variance is the minimum relief necessary considering the flood hazard and the factors listed in subsection (1) above.

(b) Variances shall only be issued upon: a showing of good and sufficient cause; a determination that failure to grant the variance would result in exceptional hardship; or a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on, or victimization of, the public, or conflict with existing local laws or chapter.

(c) Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance (as high as twenty-five dollars (\$25.00) for one hundred dollars (\$100.00)) coverage, and that such construction below the base flood elevation increases risks to life and property.

(d) The administrator shall maintain the records of all appeal actions and report any variances to FEMA upon request. (Ord. #20-16, Jan. 2021)

**14-307. Legal status provisions.** (1) Conflict with other ordinances. In case of conflict between this chapter, or any part thereof, and the whole or part of any existing or future ordinance of the City of Greenbrier, Tennessee, the most restrictive shall in all cases apply.

(2) Severability. If any section, clause, provision, or portion of this chapter shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this chapter which is not of itself invalid or unconstitutional. (Ord. #20-16, Jan. 2021)

## CHAPTER 4

### SUBDIVISION REGULATIONS<sup>1</sup>

#### SECTION

14-401. Street widths.

14-402. Drainage system.

14-403. Development prerequisite to final approval-roadway surfacing.

14-404. Development prerequisite to final approval-minimum pavement widths.

14-405. Guarantees in lieu of completed improvements.

**14-401. Street widths.** The minimum widths of rights-of-way, measured from lot line to lot line, shall be not less than fifty feet (50'). (1997 Code, § 16-301)

**14-402. Drainage system.** An adequate drainage system, including necessary open ditches, pipe, culverts, intersectional drains, drop inlets, bridges, etc., shall be provided for the proper drainage of all surface water. Cross drains shall be provided to accommodate all natural water flow, and shall be of sufficient length to permit full width roadway and the required slopes. The size openings to be provided shall be determined by Talbot's formula, but in no case shall the pipe be less than twelve inches (12"). Cross drains shall be built on straight line and grade, and shall be laid on a firm base but not on rock. Pipes shall be laid with the spigot end pointing in the direction of the flow and with the ends fitted and matched to provide tight joints and a smooth invert. They shall be placed at a sufficient depth below the road-bed to avoid dangerous pressure of impact, and in no case shall the top of the pipe be less than one foot (1') below the road-bed. (1997 Code, § 16-302)

**14-403. Development prerequisite to final approval - roadway surfacing.** After preparation of the subgrade, the road-bed shall be surfaced with material required by local standards, but of no lower classification than crushed rock, stone or gravel. The size of the crushed rock or stone shall be that generally known as "crushed rock stone" from two and one-half inches (2-1/2")

---

<sup>1</sup>Ord. #98-08, April 1998 provides:

"Fees for the review of subdivision plats to be collected by the City of Greenbrier Building Inspector."

and

"The Greenbrier Building Inspector and/or the Greenbrier Municipal Planning Commission is hereby empowered and directed to charge and collect at the time a request is made for these particular services."

down including dust. Spreading of the stone shall be done uniformly over the area to be covered by means of appropriate spreading devices, and shall not be dumped in piles. After spreading, the stone shall be rolled until thoroughly compacted. The compacted thickness of the stone roadway shall be no less than six inches (6"), and there shall be a double surface treatments of asphalt applied. (1997 Code, § 16-303)

**14-404. Development prerequisite to final approval - minimum pavement widths.** Minimum pavement widths between curbs shall be twenty-four feet (24'). (1997 Code, § 16-304)

**14-405. Guarantees in lieu of completed improvements.** No final subdivision plat shall be approved by the mayor and board of aldermen of the city or accepted for record by the county registrar of deeds until the improvements listed shall be constructed in satisfactory manner, and approved by the local approving agent, or in lieu of such prior construction, the mayor and board of aldermen may accept a security bond in an amount equal to the estimated cost of installation of the required improvement, whereby improvements may be made and utilities installed without cost to the city or county in the event of default of the subdivider. (1997 Code, § 16-305)

## TITLE 15

### MOTOR VEHICLES, TRAFFIC AND PARKING<sup>1</sup>

#### CHAPTER

1. MISCELLANEOUS.
2. EMERGENCY VEHICLES.
3. SPEED LIMITS.
4. TURNING MOVEMENTS.
5. STOPPING AND YIELDING.
6. PARKING.
7. ENFORCEMENT.

#### CHAPTER 1

#### MISCELLANEOUS<sup>2</sup>

#### SECTION

- 15-101. Motor vehicle requirements.
- 15-102. Driving on streets closed for repairs, etc.
- 15-103. One-way streets.
- 15-104. Unlaned streets.
- 15-105. Laned streets.
- 15-106. Hash marks.
- 15-107. Yellow lines.
- 15-108. Miscellaneous traffic-control signs, etc.
- 15-109. General requirements for traffic-control signs, etc.
- 15-110. Unauthorized traffic-control signs, etc.
- 15-111. Presumption with respect to traffic-control signs, etc.
- 15-112. School safety patrols.

---

<sup>1</sup>Municipal code reference

Excavations and obstructions in streets, etc.: title 16.

<sup>2</sup>State law references

Under *Tennessee Code Annotated*, § 55-10-307, the following offenses are exclusively state offenses and must be tried in a state court or a court having state jurisdiction: driving while intoxicated or drugged, as prohibited by *Tennessee Code Annotated*, § 55-10-401; failing to stop after a traffic accident, as prohibited by *Tennessee Code Annotated*, §§ 55-10-101, *et seq.*; driving while license is suspended or revoked, as prohibited by *Tennessee Code Annotated*, § 55-12-131; and drag racing, as prohibited by *Tennessee Code Annotated*, § 55-10-501.

- 15-113. Driving through funerals or other processions.
- 15-114. Riding on outside of vehicles.
- 15-115. Backing vehicles.
- 15-116. Projections from the rear of vehicles.
- 15-117. Causing unnecessary noise.
- 15-118. Passing.
- 15-119. Damaging pavements.
- 15-120. Right-of-way at intersections.
- 15-121. Obstruction of operator's view or driving mechanism.
- 15-122. Vehicles and operators to be licensed.
- 15-123. Following too close.
- 15-124. Passing.
- 15-125. Motorcycles, motor driven cycles, motorized bicycles, bicycles, etc.
- 15-126. Delivery of vehicle to unlicensed driver, etc.
- 15-127. Compliance with financial responsibility law required.
- 15-128. Adoption of state traffic statutes.

**15-101. Motor vehicle requirements.** It shall be unlawful for any person to operate any motor vehicle within the corporate limits unless such vehicle is equipped with properly operating muffler, lights, brakes, horn, and such other equipment as is prescribed and required by *Tennessee Code Annotated*, title 55, chapter 9. (1997 Code, § 15-101)

**15-102. Driving on streets closed for repairs, etc.** Except for necessary access to property abutting thereon, no motor vehicle shall be driven upon any street that is barricaded or closed for repairs, or other lawful purpose. (1997 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. (1997 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 municipality 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. (1997 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. (1997 Code, § 15-106)

**15-106. Hash marks.** It shall be unlawful for any person to drive any vehicle of any type on U.S. Highway 41, inside the city limits of the City of Greenbrier, Tennessee, in certain areas on said highway designated by painted white lines, or referred to as "hash marks." Said painted lines or "hash marks" are located on the easterly and westerly sides of U.S. Highway 41 and are placed there for the safety of all citizens. (1997 Code, § 15-107)

**15-107. Yellow lines.** On streets with a yellow line placed to the right of any lane line or centerline, 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. (1997 Code, § 15-108)

**15-108. Miscellaneous traffic-control signs, etc.**<sup>1</sup> It shall be unlawful for any pedestrian or the operator of any vehicle to violate or fail to comply with any traffic control sign, signal, marking, or device placed or erected by the state or the city unless otherwise directed by a police officer.

No person shall willfully fail or refuse to comply with any lawful order of any police officer invested by law with the authority to direct, control or regulate traffic.

**15-109. General requirements for traffic-control signs, etc.** Pursuant to *Tennessee Code Annotated*, § 54-5-108, all traffic control signs,

---

<sup>1</sup>Municipal code references

Stop signs, yield signs, flashing signals, pedestrian control signs, traffic control signals generally: §§ 15-505--15-509.

signals, markings, and devices shall conform to the latest revision of the *Tennessee Manual on Uniform Traffic Control Devices for Streets and Highways*,<sup>1</sup> and shall be uniform as to type and location throughout the city

**15-110. Unauthorized traffic-control signs, etc.** No person shall place, maintain, or display upon, or in view of, any street, any unauthorized sign, signal, marking, or device which purports to be, or is an imitation of, or resembles, an official traffic-control sign, signal, marking, or device, or railroad sign or signal, or which attempts to control the movement of traffic or parking of vehicles, or which hides from view or interferes with the effectiveness of any official traffic-control sign, signal, marking, or device, or any railroad sign or signal. (1997 Code, § 15-111)

**15-111. Presumption with respect to traffic-control signs, etc.** When a traffic-control sign, signal, marking, or device has been placed, the presumption shall be that it is official and that it has been lawfully placed by the proper municipal authority. (1997 Code, § 15-112)

**15-112. School safety patrols.** All motorists and pedestrians shall obey the directions or signals of school safety patrols when such patrols are assigned under the authority of the chief of police and are acting in accordance with instructions; provided, that such persons giving any order, signal, or direction shall, at the time, be wearing some insignia and/or using authorized flags for giving signals. (1997 Code, § 15-113)

**15-113. Driving through funerals or other processions.** Except when otherwise directed by a police officer, no driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated. (1997 Code, § 15-114)

**15-114. 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. (1997 Code, § 15-115)

---

<sup>1</sup>For the latest revision of the *Tennessee Manual on Uniform Traffic Control Devices for Streets and Highways*, see the Official Compilation of the Rules and Regulations of the State of Tennessee, § 1680-3-1, *et seq.*

**15-115. 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. (1997 Code, § 15-116)

**15-116. 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. (1997 Code, § 15-117)

**15-117. 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, or using an exhaust cut-out, whistle, or similar device on any motor vehicle. (1997 Code, § 15-118)

**15-118. Passing.** 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.

No person shall drive off the pavement or upon the shoulder of the street in overtaking or passing on the right.

When any vehicle has stopped at a marked crosswalk or at an intersection to permit a pedestrian to cross the street, no operator of any other vehicle approaching from the rear shall overtake and pass such stopped vehicle.

No vehicle operator shall attempt to pass another vehicle proceeding in the same direction unless he can see that the way ahead is sufficiently clear and unobstructed to enable him to make the movement in safety. (1997 Code, § 15-120)

**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, tires, or track, is likely to damage the surface or foundation of the street. (1997 Code, § 15-121)

**15-120. Right-of-way at intersections.** The operator of a vehicle approaching an intersection shall yield the right-of-way to any vehicle which has entered that intersection.



When two (2) vehicles enter the intersection at approximately the same time, the operator of the vehicle on the left shall yield the right-of-way to the vehicle on the right. (1997 Code, § 15-124)

**15-121. Obstruction of operator's view or driving mechanism.** No operator of any vehicle shall drive the same when such vehicle is so loaded with persons or materials as to obstruct the view of the operator or to interfere with the operator's control over the driving mechanism, or to endanger the lives or safety of passengers or others. (1997 Code, § 15-125)

**15-122. 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."

**15-123. Following too close.** The operator of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicle and the traffic upon, and the condition of the streets. (1997 Code, § 15-123)

**15-124. Passing.** Except when overtaking and passing on the right is permitted, the driver of a vehicle passing another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the street until safely clear of the overtaken vehicle. The driver of the overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

When the street is wide enough, the driver of a vehicle may overtake and pass upon the right of another vehicle which is making or about to make a left turn.

The driver of a vehicle may overtake and pass another vehicle proceeding in the same direction either upon the left or upon the right on a street of sufficient width for four (4) or more lanes of moving traffic when such movement can be made in safety.

No person shall drive off the pavement or upon the shoulder of the street in overtaking or passing on the right.

When any vehicle has stopped at a marked crosswalk or at an intersection to permit a pedestrian to cross the street, no operator of any other vehicle approaching from the rear shall overtake and pass such stopped vehicle.

No vehicle operator shall attempt to pass another vehicle proceeding in the same direction unless he can see that the way ahead is sufficiently clear and unobstructed to enable him to make the movement in safety.

**15-125. Motorcycles, motor driven cycles, motorized bicycles, bicycles, etc.** (1) Definitions For the purpose of the application of this section, the following words shall have the definitions indicated:

(a) "Motorcycle." Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, including a vehicle that is fully enclosed, has three (3) wheels in contact with the ground, weighs less than one thousand five hundred pounds (1,500 lbs.), and has the capacity to maintain posted highway speed limits, but excluding a tractor or motorized bicycle.

(b) "Motor-driven cycle." Every motorcycle, including every motor scooter, with a motor which produces not to exceed five (5) brake horsepower, or with a motor with a cylinder capacity not exceeding one hundred and twenty-five cubic centimeters (125cc);

(c) "Motorized bicycle." A vehicle with two (2) or three (3) wheels, an automatic transmission, and a motor with a cylinder capacity not exceeding fifty (50) cubic centimeters which produces no more than two (2) brake horsepower and is capable of propelling the vehicle at a maximum design speed of no more than thirty (30) miles per hour on level ground.

(2) Every person riding or operating a bicycle, motorcycle, motor driven cycle or motorized bicycle shall be subject to the provisions of all traffic ordinances, rules, and regulations of the city applicable to the driver or operator of other vehicles except as to those provisions which by their nature can have no application to bicycles, motorcycles, motor driven cycles, or motorized bicycles.

(3) No person operating or riding a bicycle, motorcycle, motor driven cycle or motorized bicycle shall ride other than upon or astride the permanent and regular seat attached thereto, nor shall the operator carry any other person upon such vehicle other than upon a firmly attached and regular seat thereon.

(4) No bicycle, motorcycle, motor driven cycle or motorized bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

(5) No person operating a bicycle, motorcycle, motor driven cycle or motorized bicycle shall carry any package, bundle, or article which prevents the rider from keeping both hands upon the handlebars.

(6) No person under the age of sixteen (16) years shall operate any motorcycle, motor driven cycle or motorized bicycle while any other person is a passenger upon said motor vehicle.

(7) (a) Each driver of a motorcycle, motor driven cycle, or motorized bicycle and any passenger thereon shall be required to wear on his head, either a crash helmet meeting federal standards contained in 49 CFR 571.218, or, if such driver or passenger is twenty-one (21) years of age or older, a helmet meeting the following requirements:

(i) Except as provided in subdivisions (a)(ii)-(iv), the helmet shall meet federal motor vehicle safety standards specified in 49 CFR 571.218;

(ii) Notwithstanding any provision in 49 CFR 571.218 relative to helmet penetration standards, ventilation airways may penetrate through the entire shell of the helmet; provided, that no ventilation airway shall exceed one and one-half inches (1 1/2") in diameter;

(iii) Notwithstanding any provision in 49 CFR 571.218, the protective surface shall not be required to be a continuous contour; and

(iv) Notwithstanding any provision in 49 CFR 571.218 to the contrary, a label on the helmet shall be affixed signifying that such helmet complies with the requirements of the American Society for Testing Materials (ASTM), the Consumer Product Safety Commission (CSPM), or the Snell Memorial Foundation, Inc.

(b) This section does not apply to persons riding:

(i) Within an enclosed cab;

(ii) Motorcycles that are fully enclosed, have three (3) wheels in contact with the ground, weigh less than one thousand five hundred pounds (1,500 lbs.) and have the capacity to maintain posted highway speed limits;

(iii) Golf carts; or

(iv) In a parade, at a speed not to exceed thirty (30) miles per hour, if the person is eighteen (18) years or older.

(8) Every motorcycle, motor driven cycle, or motorized bicycle operated upon any public way within the corporate limits shall be equipped with a windshield or, in the alternative, the operator and any passenger on any such motorcycle, motor driven cycle or motorized bicycle shall be required to wear safety goggles, faceshield or glasses containing impact resistant lens for the purpose of preventing any flying object from striking the operator or any passenger in the eyes.

(9) It shall be unlawful for any person to operate or ride on any vehicle in violation of this section, and it shall also be unlawful for any parent or guardian knowingly to permit any minor to operate a motorcycle, motor driven cycle or motorized bicycle in violation of this section.

**15-126. Delivery of vehicle to unlicensed driver, etc.**

(1) Definitions. (a) "Adult" shall mean any person eighteen (18) years of age or older.

(b) "Automobile" shall mean any motor driven automobile, car, truck, tractor, motorcycle, motor driven cycle, motorized bicycle, or vehicle driven by mechanical power.

(c) "Custody" means the control of the actual, physical care of the juvenile, and includes the right and responsibility to provide for the physical, mental, moral and emotional well being of the juvenile. "Custody" as herein defined, relates to those rights and responsibilities as exercised either by the juvenile's parent or parents or a person granted custody by a court of competent jurisdiction.

(d) "Drivers license" shall mean a motor vehicle operators license or chauffeurs license issued by the State of Tennessee.

(e) "Juvenile" as used in this chapter shall mean a person less than eighteen years of age, and no exception shall be made for a juvenile who has been emancipated by marriage or otherwise.

(2) It shall be unlawful for any adult to deliver the possession of or the control of any automobile or other motor vehicle to any person, whether an adult or a juvenile, who does not have in his possession a valid motor vehicle operators or chauffeurs license issued by the Department of Safety of the State of Tennessee, or for any adult to permit any person, whether an adult or a juvenile, to drive any motor vehicle upon the streets, highways, roads, avenues, parkways, alleys or public thoroughfares in the City of Greenbrier unless such person has a valid motor vehicle operators or chauffeurs license as issued by the Department of Safety of the State of Tennessee.

(3) It shall be unlawful for any parent or person having custody of a juvenile to permit any such juvenile to drive a motor vehicle upon the streets, highways, roads, parkways, avenues or public ways in the city in a reckless, careless, or unlawful manner, or in such a manner as to violate the ordinances of the city.

**15-127. 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" shall be defined by *Tennessee Code Annotated*, § 55-12-139:

(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 the 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 the 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 that is dismissed pursuant to this subsection shall be dismissed without costs to the defendant and no litigation tax shall be due or collected, notwithstanding any law to the contrary.

**15-128. Adoption of state traffic 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 adopts *Tennessee Code Annotated*, § 55-4-101 through 55-4-135, §§ 55-8-181 to 55-8-193, §§ 55-8-199, 55-8-204, §§ 55-9-601 to 55-9-606, § 55-12-139, § 55-21-108, and § 55-50-351 by reference as if fully set forth in this section.

**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. (1997 Code, § 15-201)

**15-202. Operation of authorized emergency vehicles.**<sup>1</sup> (1) The driver of an authorized emergency vehicle, when responding to an emergency call, or when in the pursuit of an actual or suspected violator of the law, or when responding to, but not upon returning from, a fire alarm, may exercise the privileges set forth in this section, subject to the conditions herein stated.

(2) The driver of an authorized emergency vehicle may 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 or blue light visible under normal atmospheric conditions from a distance of five hundred feet (500') to the front of such 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. (1997 Code, § 15-202)

---

<sup>1</sup>Municipal code reference

Operation of other vehicle upon the approach of emergency vehicles:  
§ 15-501.

**15-203. Following emergency vehicles.** No driver of any vehicle shall follow any authorized emergency vehicle apparently traveling 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. (1997 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 firefighter or police officer. (1997 Code, § 15-204)

## CHAPTER 3

### SPEED LIMITS

#### SECTION

15-301. In general.

15-302. At intersections.

15-303. In school zones and near playgrounds.

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. (1997 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. (1997 Code, § 15-302)

**15-303. In school zones.** Pursuant to *Tennessee Code Annotated*, § 55-8-152, the city shall have the authority to enact special speed limits in school zones. Such special speed limits shall be enacted based on an engineering investigation; shall not be less than fifteen (15) miles per hour; and shall be in effect only when proper signs are posted with a warning flasher or flashers in operation. It shall be unlawful for any person to violate any such special speed limit enacted and in effect in accordance with this paragraph.

In school zones where the board of mayor and aldermen has not established special speed limits as provided for above, any person who shall drive at a speed exceeding fifteen (15) miles per hour when passing a school during a recess period when a warning flasher or flashers are in operation, or during a period of ninety (90) minutes before the opening hour of a school, or a period of ninety (90) minutes after the closing hour of a school (***give time amount if special school district***), while children are actually going to or leaving school, shall be prima facie guilty of reckless driving.

**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. (1997 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. 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.<sup>1</sup> (1997 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. (1997 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 centerline thereof, and by passing to the right of the intersection of the centerline of the two (2) roadways. (1997 Code, § 15-403)

**15-404. U-turns.** U-turns are prohibited. (1997 Code, § 15-404)

---

<sup>1</sup>State law reference

*Tennessee Code Annotated*, § 55-8-143.

## CHAPTER 5

### STOPPING AND YIELDING

#### SECTION

- 15-501. When emerging from alleys, etc.
- 15-502. To prevent obstructing an intersection.
- 15-503. At railroad crossings.
- 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. 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. (1997 Code, § 15-502)

**15-502. 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. (1997 Code, § 15-503)

**15-503. At railroad crossings.** Any driver of a vehicle approaching a railroad grade crossing shall stop within not less than fifteen feet (15') from the nearest rail of such railroad and shall not proceed further while any of the following conditions exist:

- (1) A clearly visible electrical or mechanical signal device gives warning of the approach of a railroad train.
- (2) A crossing gate is lowered or a human flagman signals the approach of a railroad train.
- (3) A railroad train is approaching within approximately one thousand five hundred feet (1,500') of the highway crossing and is emitting an audible signal indicating its approach.
- (4) An approaching railroad train is plainly visible and is in hazardous proximity to the crossing. (1997 Code, § 15-504)

**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 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. (1997 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. (1997 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 (1) 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.

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal. (1997 Code, § 15-507)

**15-507. At flashing traffic-control signals.** (1) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal placed or erected by the municipality it shall require obedience by vehicular traffic as follows:

(a) Flashing red (stop signal). When a red lens is illuminated with intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(b) Flashing yellow (caution signal). When a yellow lens is illuminated with intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

(2) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules set forth in § 15-504 of this code. (1997 Code, § 15-508)

**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. (1997 Code, § 15-509)

**15-509. Stops to be signaled**. Every driver operating a motor vehicle who intends to stop such vehicle, shall first see that such movement can be made in safety, and whenever the operation of any other vehicle may be affected by such movement, shall give the signal required in *Tennessee Code Annotated*, § 55-8-143, plainly visible to the driver of such other vehicle of the intention to make such movement.

## CHAPTER 6

### PARKING

#### SECTION

15-601. Generally.

15-602. Angle parking.

15-603. Occupancy of more than one space.

15-604. Where prohibited.

15-605. Loading and unloading zones.

15-606. Presumption with respect to illegal parking.

**15-601. Generally.** No person shall leave any motor vehicle unattended on any street without first setting the brakes thereon, stopping the motor, removing the ignition key, and turning the front wheels of such vehicle toward the nearest curb or gutter of the street.

Except as hereinafter provided, every vehicle parked upon a street within this 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.

Notwithstanding anything else in this code to the contrary, no person shall park or leave a vehicle parked on any 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. (1997 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'). (1997 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. (1997 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 fifty feet (50') of a railroad crossing.
- (7) 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.
- (8) Alongside or opposite any street excavation or obstruction when other traffic would be obstructed.
- (9) On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
- (10) Upon any bridge.
- (11) Alongside any curb painted yellow or red by the municipality. (1997 Code, § 15-604)

**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. (1997 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. (1997 Code, § 15-606)

## 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.**<sup>1</sup> When a police officer halts a traffic violator other than for the purpose of giving a warning, and does not take such person into custody under arrest, he shall take the name, address, and operator's license number of said person, the license number of the motor vehicle involved, and such other pertinent information as may be necessary, and shall issue to him a written traffic citation containing a notice to answer to the charge against him in the city court at a specified time. The officer, upon receiving the written promise of the alleged violator to answer as specified in the citation, shall release such person from custody. It shall be unlawful for any alleged violator to give false or misleading information as to his name or address. (1997 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. (1997 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. (1997 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

---

<sup>1</sup>State 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 fifty dollars (\$50.00) and a storage cost of twenty dollars (\$20.00) per day shall also be charged. (1997 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.

(2) Parking violations. For other parking violations, the offender may, within ten (10) days, have the charge against him disposed of by paying to the city recorder a fine of three dollars (\$3.00); provided he waives his right to a judicial hearing. If he appears and waives his right to a judicial hearing after ten (10) days, but before a warrant is issued for his arrest, his civil penalty shall be five dollars (\$5.00).



## TITLE 16

### STREETS AND SIDEWALKS, ETC<sup>1</sup>

#### 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. Projecting signs and awnings, etc., restricted.
- 16-105. Banners and signs across streets and alleys restricted.
- 16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.
- 16-107. Obstruction of drainage ditches.
- 16-108. Parades regulated.
- 16-109. Operation of trains at crossings regulated.
- 16-110. Animals and vehicles on sidewalks.
- 16-111. Fires in streets, etc.
- 16-112. Roadblocks restricted.
- 16-113. Violations and penalty.

**16-101. Obstructing streets, alleys, or sidewalks prohibited.** No person shall use or occupy any portion of any public street, alley, sidewalk, or right-of-way for the purpose of storing, selling, or exhibiting any goods, wares, merchandise, or materials. (1997 Code, § 16-101)

**16-102. Trees projecting over streets, etc., regulated.** It shall be unlawful for any property owner or occupant to allow any limbs of trees on his property to project out over any street, alley, or sidewalk at a height of less than fourteen feet (14'). (1997 Code, § 16-102)

**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, billboard, or other obstruction which

---

<sup>1</sup>Municipal code reference

Related motor vehicle and traffic regulations: title 15.

prevents persons driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. (1997 Code, § 16-103)

**16-104. Projecting signs and awnings, etc., restricted.** Signs, awnings, or other structures, which project over any street or other public way, shall be erected subject to the requirements of the building code.<sup>1</sup> (1997 Code, § 16-104)

**16-105. Banners and signs across streets and alleys restricted.** It shall be unlawful for any person to place, or have placed, any banner or sign across any public street or alley except when expressly authorized by the governing body. (1997 Code, § 16-105)

**16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.** It shall be unlawful for any person owning or occupying property to allow any gate or door to swing open upon, or over, any street, alley, or sidewalk except when required by statute. (1997 Code, § 16-106)

**16-107. Obstruction of drainage ditches.** It shall be unlawful for any person to permit or cause the obstruction of any drainage ditch in any public right-of-way. (1997 Code, § 16-108)

**16-108. Parades regulated.** It shall be unlawful for any club, organization, or similar group to hold any meeting, parade, demonstration, or exhibition on the public streets without some responsible representative first securing a permit from the recorder. No permit shall be issued by the recorder unless such activity will not unreasonably interfere with traffic, and unless such representative shall agree to see to the immediate cleaning up of all litter which shall be left on the streets as a result of the activity. Furthermore, it shall be unlawful for any person obtaining such a permit to fail to carry out his agreement to clean up the resulting litter immediately. (1997 Code, § 16-109)

**16-109. Operation of trains at crossings regulated.** No person shall operate any railroad train across any street or alley without giving a warning of its approach, as required by state law. It shall be unlawful to stop a railroad train so as to block or obstruct any street or alley for a period of more than five (5) consecutive minutes. (1997 Code, § 16-110)

**16-110. 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

---

<sup>1</sup>Municipal code reference  
Building code: title 12, chapter 1.

vehicle across, or upon, any sidewalk in such manner as to unreasonably interfere with or inconvenience pedestrians using the sidewalk. It shall also be unlawful for any person to knowingly allow any minor under his control to violate this section. (1997 Code, § 16-111)

**16-111. Fires in streets, etc.** It shall be unlawful for any person to set, or contribute to, any fire in any public street, alley, or sidewalk. (1997 Code, § 16-112)

**16-112. Roadblocks restricted.** (1) Solicitation roadblocks are not allowed within the municipal limits of the City of Greenbrier.

(2) The following terms shall apply in the interpretation and application of this chapter:

(a) "Solicitation roadblock" means the solicitation by any person of money on, or in, the right-of-way of any street, road, highway, or any other public way and place generally open to, and used by, the public for travel in, or upon, motor vehicles.

(b) "Street," "road," "highway," and "public way and place" means and includes the paved or unpaved surface of any street, road, highway, or public place, the entire width of the public right-of-way extending laterally therefrom, dividers, medians, and abutting or adjoining sidewalks, or other pedestrian pathways generally open to the public for pedestrian traffic.

(3) Should the board of mayor and aldermen deem it is in the best interest of the City of Greenbrier to allow solicitation roadblocks, an ordinance shall be passed to establish rules and guidelines of said roadblocks. (1997 Code, § 16-113)

**16-113. Violations and penalty.** Violations of this chapter shall subject the offender to a penalty under the general penalty provision of this code.

## CHAPTER 2

### EXCAVATIONS AND CUTS

#### SECTION

- 16-201. Permit required.
- 16-202. Applications.
- 16-203. Fees.
- 16-204. Deposit or bond.
- 16-205. Manner of excavating--barricades and lights--temporary sidewalks.
- 16-206. Restoration of streets, etc.
- 16-207. Insurance.
- 16-208. Time limits.
- 16-209. Supervision.
- 16-210. Driveway curb cuts.

**16-201. Permit required.** It shall be unlawful for any utility, person, firm, corporation, association, or any others to make any excavation to any street, alley, or public place, or to tunnel under any street, alley, or public place without having first obtained a permit from the city recorder. 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 with a permit when emergency circumstances demand the work to be done immediately and the permit cannot be reasonably obtained beforehand. However, said person shall immediately contact the municipality's emergency service with emergency situation. The said person shall thereafter apply for permit on the first regular business day on which the office of the recorder is open for business and the permit shall be retroactive to the date when the work began. (Ord. #24-09, June 2024)

**16-202. Applications.** Applications for such permits shall be made to the recorder, or such person as he may designate to receive such applications, and shall state thereon the location of the intended excavation or tunnel, the size thereof, the purpose thereof, the person, firm, corporation, association, or others doing the actual excavating, the name of the person, firm, corporation, association, or others for whom the work is being done, and shall contain an agreement that the applicant will comply with all ordinances and laws relating to the work to be done. Such application shall be rejected or approved by the recorder within twenty-four (24) hours of its filing. (1997 Code, § 16-202)

**16-203. Fees.** The fee for such permits shall be five hundred dollars (\$500.00) for excavations which do not exceed twenty-five (25) square feet in area or tunnels not exceeding twenty-five feet (25') in length; and five dollars

(\$5.00) for each additional square foot in the case of excavations, or lineal foot in the case of tunnels; but not to exceed five thousand dollars (\$5,000.00) for any permit. (Ord. #24-09, June 2024)

**16-204. Deposit or bond.** No such permit shall be issued unless and until the applicant therefor has deposited with the recorder a cash deposit. The deposit shall be in the sum of five hundred dollars (\$500.00) if no pavement is involved or one thousand dollars (\$1,000.00) if the excavation is in a paved area and shall ensure the proper restoration of the ground and, laying of the pavement, if any. Where the amount of the deposit is clearly inadequate to cover the cost of restoration, the recorder may, after consultation with public works or an engineer, increase the amount of the deposit to an amount considered to be adequate to cover the cost. From this deposit shall be deducted the expense to the city/town of relaying the surface of the ground or pavement, and of making the refill if this is done by the city or at its expense. The balance shall be returned to the applicant without interest after the tunnel or excavation is completely refilled and the surface or pavement is restored.

In lieu of a deposit the applicant may deposit with the recorder a surety bond in such form and amount as the recorder shall deem adequate to cover the costs to the city if the applicant fails to make proper restoration.

**16-205. 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. (1997 Code, § 16-205)

**16-206. Restoration of streets, etc.** Any person, firm, corporation, association, or others making any excavation or tunnel in, or under, any street, alley, or public place in this municipality shall restore said street, alley, or public place to its original condition except for the surfacing, which shall be done by the municipality, but shall be paid for by such person, firm, corporation, association, or others promptly upon the completion of the work for which the excavation or tunnel was made. In case of unreasonable delay in restoring the street, alley, or public place, the recorder shall give notice to the person, firm, corporation, association, or others that unless the excavation or tunnel is refilled properly within a specified reasonable period of time, the municipality will do the work and charge the expense of doing the same to such person, firm, corporation, association, or others. If, within the specified time, the conditions of the above notice have not been complied with, the work shall be done by the municipality, an accurate account of the expense involved shall be kept, and the

total cost shall be charged to the person, firm, corporation, association, or others who made the excavation or tunnel. (1997 Code, § 16-206)

**16-207. Insurance.** In addition to making the deposit or giving the bond hereinbefore required to ensure 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 one million dollars (\$1,000,000.00) for each person and one million dollars (\$1,000,000.00) for each accident, and for property damages not less than one million dollars (\$1,000,000.00) for any one (1) accident, and a one million dollar (\$1,000,000.00) aggregate. (1997 Code, § 16-207, modified)

**16-208. Time limits.** Each application for a permit shall state the length of time it is estimated will elapse from the commencement of the work until the restoration of the surface of the ground or pavement, or until the refill is made ready for the pavement to be put on by the 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 recorder. (1997 Code, § 16-208)

**16-209. Supervision.** The recorder, or anyone designated by him, 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. (1997 Code, § 16-209)

**16-210. Driveway curb cuts.** No one shall cut, build, or maintain a driveway across a curb or sidewalk without first obtaining a permit from the recorder. 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. (1997 Code, § 16-210)

**TITLE 17****REFUSE AND TRASH DISPOSAL**<sup>1</sup>**CHAPTER****1. REFUSE.****CHAPTER 1****REFUSE****SECTION**

- 17-101. Refuse defined.
- 17-102. Premises to be kept clean.
- 17-103. Storage.
- 17-104. Location of containers.
- 17-105. Disturbing containers.
- 17-106. Collection.
- 17-107. Collection vehicles.
- 17-108. Disposal.
- 17-109. Violations and penalty.

**17-101. Refuse defined.** "Refuse" shall mean and include garbage, rubbish, leaves, brush, and refuse as those terms are generally defined, except that dead animals and fowls, bodily wastes, hot ashes, rocks, concrete, bricks, and similar materials are expressly excluded therefrom, and shall not be stored therewith. (1997 Code, § 17-101)

**17-102. Premises to be kept clean.** All persons within the municipality are required to keep their premises in a clean and sanitary condition, free from accumulations of refuse, except when stored as provided in this chapter. (1997 Code, § 17-102)

**17-103. Storage.** Each owner, occupant, or other responsible person using or occupying any building or other premises within this municipality where refuse accumulates, or is likely to accumulate, shall provide and keep covered an adequate number of refuse containers. The refuse containers shall be strong, durable, and rodent and insect proof. They shall each have a capacity of not less than twenty (20) gallons, nor more than thirty-two (32) gallons, except that this maximum capacity shall not apply to larger containers which the municipality handles mechanically. Furthermore, except for containers

---

<sup>1</sup>Municipal code reference

Property maintenance regulations: title 13.

which the municipality 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. Tree trimmings, hedge clippings, and similar materials shall be cut to a length not to exceed four feet (4') and shall be securely tied in individual bundles weighing not more than seventy-five (75) pounds each, and being not more than two feet (2') thick, before being deposited for collection. (1997 Code, § 17-103)

**17-104. Location of containers.** Where alleys are used by the municipal refuse collectors, containers shall be placed on, or within, six feet (6') 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 municipal 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 is no curb, at such times as shall be scheduled by the municipality for the collection of refuse therefrom. As soon as practicable after such containers have been emptied, they shall be removed by the owner to within, or to the rear of, his premises and away from the street line until the next scheduled time for collection. (1997 Code, § 17-104)

**17-105. Disturbing containers.** No unauthorized person shall uncover, rifle, pilfer, dig into, turn over, or in any other manner disturb or use any refuse container belonging to another. This section shall not be construed to prohibit the use of public refuse containers for their intended purpose. (1997 Code, § 17-105)

**17-106. Collection.** All refuse accumulated within the corporate limits shall be collected, conveyed, and disposed of under the supervision of such officer as the governing body shall designate. Collections shall be made regularly in accordance with an announced schedule. (1997 Code, § 17-106)

**17-107. Collection vehicles.** The collection of refuse shall be by means of vehicles with beds constructed of impervious materials which are easily cleanable and so constructed that there will be no leakage of liquids draining from the refuse onto the streets and alleys. Furthermore, all refuse collection vehicles shall utilize closed beds or such coverings as will effectively prevent the scattering of refuse over the streets or alleys. (1997 Code, § 17-107)

**17-108. Disposal.** The disposal of refuse in any quantity by any person in any place, public or private, other than at the site or sites designated for 14-4refuse disposal by the governing body, is expressly prohibited. (1997 Code, § 17-108)



**17-109. Violations and penalty.** Violations of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

## TITLE 18

### WATER AND SEWERS<sup>1</sup>

#### CHAPTER

1. GREENBRIER WATER AND SEWER DEPARTMENT.
2. WATER.
3. GENERAL WASTEWATER REGULATIONS.
4. INDUSTRIAL/COMMERCIAL WASTEWATER REGULATIONS.
5. CROSS-CONNECTIONS, AUXILIARY INTAKES, ETC.
6. SEWER CONSTRUCTION ORDINANCE.
7. STORMWATER ORDINANCE.
8. ANIMAL AND VEGETABLE FATS, OILS AND GREASE.

#### CHAPTER 1

### GREENBRIER WATER AND SEWER DEPARTMENT<sup>2</sup>

#### SECTION

- 18-101. Consolidation of systems.
- 18-102. Collecting and accounting for revenues.
- 18-103. Allocation of operating expenses.
- 18-104. Disposition of revenue.

**18-101. Consolidation of systems.** The Greenbrier Water System and the Greenbrier Sewer Department are hereby consolidated into one (1) department designated as the "Greenbrier Water and Sewer Department." (1997 Code, § 18-101)

**18-102. Collecting and accounting for revenues.** The revenue from water service and the revenue for sewer service shall be collected concurrently and combined in one (1) statement to the beneficiary of such services, and both charges shall be collected as a unit. The revenues from water services and the revenues from sewer services shall be kept segregated, deposited in separate accounts and separate books kept thereon. (1997 Code, § 18-102)

---

<sup>1</sup>Municipal code references

Building, utility and residential codes: title 12.  
Refuse disposal: title 17.

<sup>2</sup>Water and sewer rates, as amended from time to time, are available in the office of the recorder.

**18-103. Allocation of operating expenses.** All operating expenses of the Greenbrier Water and Sewer Department shall be equitably and accurately allocated between the two (2) divisions of said department, the expenses thereof properly allocable to the water division being allocated to that division and the expenses properly allocable to the sewer division being allocated to that division. (1997 Code, § 18-103)

**18-104. Disposition of revenue.** All revenues for water service shall be kept intact to the end that the same shall be punctually applied to the payment and retirement of water department bonds heretofore issued and for which said revenues have heretofore been pledged and in a like manner the revenues for sewer services shall be punctually applied to the payment and retirement of sewer department bonds heretofore issued and for which said revenues have heretofore been pledged by separate ordinances. (1997 Code, § 18-104)

## CHAPTER 2

### WATER

#### SECTION

- 18-201. Application and scope.
- 18-202. Definitions.
- 18-203. Obtaining service.
- 18-204. Application and contract for service.
- 18-205. Service charges for temporary service.
- 18-206. Connection charges.
- 18-207. Main extensions.
- 18-208. Variances from and effect of preceding rules as to extensions.
- 18-209. Meters and tampering.
- 18-210. Meter tests.
- 18-211. Multiple services through a single meter.
- 18-212. Billing.
- 18-213. Discontinuance or refusal of service.
- 18-214. Re-connection charge.
- 18-215. Termination of service by customer.
- 18-216. Access to customers' premises.
- 18-217. Inspections.
- 18-218. Customer's responsibility for system's property.
- 18-219. Customer's responsibility for violations.
- 18-220. Supply and resale of water.
- 18-221. Unauthorized use of or interference with water supply.
- 18-222. Damages to property due to water pressure.
- 18-223. Liability for cutoff failures.
- 18-224. Restricted use of water.
- 18-225. Interruption of service.
- 18-226. Schedule of rates.
- 18-227. Fluoridation of water supply.
- 18-228. Single-family dwelling connection fee.

**18-201. Application and scope.** These rules and regulations are a part of all contracts for receiving water service from the municipality, and shall apply whether the service is based upon contract, agreement, signed application, or otherwise. (1997 Code, § 18-201)

**18-202. Definitions.** (1) "Customer" means any person, firm, or corporation who receives water service from the municipality under either an express or implied contract.

(2) "Discount date" means the date ten (10) days after the date of a bill, except when some other date is provided by contract. The discount date is the last date upon which water bills can be paid at net rates.

(3) "Dwelling" means any single structure, with auxiliary buildings, occupied by one (1) or more persons or households for residential purposes.

(4) "Household" means any two (2) or more persons living together as a family group.

(5) "Premises" means any structure or group of structures operated as a single business or enterprise; provided, however, the term "premises" shall not include more than one (1) dwelling.

(6) "Service line" shall consist of the pipe line extending from any water main of the municipality to private property. Where a meter and meter box are located on private property, the service line shall be construed to include the pipe line extending from the municipality's water main to, and including, the meter and meter box. (1997 Code, § 18-202)

**18-203. Obtaining service.** A formal application for either original or additional service must be made and approved by the municipality before connection or meter installation orders will be issued and work performed. (1997 Code, § 18-203)

**18-204. Application and contract for service.** Each prospective customer desiring water service will be required to sign a standard form contract before service is supplied. If, for any reason, a customer, after signing a contract for water service, does not take such service by reason of not occupying the premises or otherwise, he shall reimburse the municipality for the expense incurred by reason of its endeavor to furnish said service.

The receipt of a prospective customer's application for service, regardless of whether or not accompanied by a deposit, shall not obligate the municipality to render the service applied for. If the service applied for cannot be supplied in accordance with these rules, regulations, and general practice, the liability of the municipality to the applicant for such service shall be limited to the return of any deposit made by such applicant.

Renters shall pay a deposit of two hundred dollars (\$200.00) on each connection for residential or commercial property. (1997 Code, § 18-204, as amended by Ord. #23-06, Aug. 2023)

**18-205. Service charges for temporary service.** Customers requiring temporary service shall pay all costs for connection and disconnection incidental to the supplying and removing of service in addition to the regular charge for water used. (1997 Code, § 18-205)

**18-206. Connection charges.** Fees for connection, as amended from time to time, are available in the recorder's office. (1997 Code, § 18-206, modified)

**18-207. Main extensions.** Customers desiring water main extensions pursuant to this section must pay all of the cost of making such extensions.

For installations under this section, cement-lined cast iron pipe, class 150 American Water Works Association Standard, not less than six inches (6") in diameter, shall be used to the dead end of any line and to form loops or continuous lines, so that fire hydrants may be placed on such lines at locations no farther than one thousand feet (1,000') from the most distant part of any dwelling structure, and no farther than six hundred feet (600') from the most distant part of any commercial, industrial, or public building, such measurements to be based on road or street distances; cement-lined cast iron pipe two inches (2") in diameter, to supply dwellings only, may be used to supplement such lines. All such lines shall be installed either by municipal forces or by other forces working directly under the supervision of the municipality.

Upon completion of such extensions and their approval by the municipality, such water mains shall become the property of the municipality. The persons paying the cost of constructing such mains shall execute any written instruments requested by the municipality to provide evidence of the municipality's title to such mains. In consideration of such mains being transferred to it, the municipality shall incorporate said mains as an integral part of the municipal water system and shall furnish water therefrom in accordance with these rules and regulations, subject always to such limitations as may exist because of the size and elevation of said mains. (1997 Code, § 18-207)

**18-208. Variances from and effect of preceding rules as to extensions.** Whenever the governing body is of the opinion that it is to the best interest of the water system to construct a water main extension without requiring strict compliance with § 18-207, such extension may be constructed upon such terms and conditions as shall be approved by a majority of the members of the governing body.

The authority to make water main extensions under § 18-207 is permissive only, and nothing contained therein shall be construed as requiring the municipality to make water main extensions or to furnish service to any person or persons. (1997 Code, § 18-208)

**18-209. Meters and tampering.** All meters shall be installed, tested, repaired, and removed only by the municipality.

No one shall do anything which will in any way interfere with or prevent the operation of a meter. No one shall tamper with or work on a water meter

without the written permission of the municipality. No one shall install any pipe or other device which will cause water to pass through or around a meter without the passage of such water being registered fully by the meter. Any evidence of tampering will result in an assessment of three hundred dollar (\$300.00) replacement fee. Upon the occurrence of a second offense, the municipality may also file a civil lawsuit for damages pursuant to *Tennessee Code Annotated*, § 65-35-104; and upon the occurrence of a third offense, criminal charges may also be brought pursuant to *Tennessee Code Annotated*, § 39-14-104. (Ord. #21-01, April 2021, as replaced by Ord. #23-06, Aug. 2023)

**18-210. Meter tests.** The municipality will, at its own expense, make routine tests of meters when it considers such tests desirable.

In testing meters, the water passing through a meter will be weighed or measured at various rates of discharge and under varying pressures. To be considered accurate, the meter registration shall check with the weighed or measured amounts of water within the percentage shown in the following table:

<u>Meter Size</u>	<u>Percentage</u>
5/8", 3/4", 1", 2"	2%
3"	3%
4"	4%
6"	5%

The municipality will also make tests or inspections of its meters at the request of the customer. However, if a test requested by a customer shows a meter to be accurate within the limits stated above, the customer shall pay a meter testing charge in the amount stated in the following table:

<u>Meter Size</u>	<u>Test Charge</u>
5/8", 3/4"	\$75.00

If such test show a meter not to be accurate within such limits, the cost of such meter test shall be borne by the municipality. (1997 Code, § 18-210, as amended by Ord. #23-06, Aug. 2023)

**18-211. Multiple services through a single meter.** No customer shall supply water service to more than one (1) dwelling or premises from a single service line and meter without first obtaining the written permission of the municipality.

Where the municipality allows more than one (1) dwelling or premises to be served through a single service line and meter, the amount of water used by all the dwellings and premises served through a single service line and meter shall be allocated to each separate dwelling or premises served. The water charge for each such dwelling or premises thus served shall be computed just as

if each such dwelling or premises had received through a separately metered service the amount of water so allocated to it, such computation to be made at the municipality's applicable water rates schedule, including the provisions as to minimum bills. The separate charges for each dwelling or premises served through a single service line and meter shall then be added together, and the sum thereof shall be billed to the customer in whose name the service is supplied. (1997 Code, § 18-211)

**18-212. Billing.** Bills for residential service will be rendered monthly.

Bills for commercial and industrial service may be rendered weekly, semimonthly, or monthly, at the option of the municipality.

Water bills must be paid on, or before, the discount date shown thereon to obtain the net rate, otherwise the gross rate shall apply. Failure to receive a bill will not release a customer from payment obligation, nor extend the discount date.

In the event a bill is not paid on, or before, five (5) days after the discount date, a written notice shall be mailed to the customer. The notice shall advise the customer that his service may be discontinued without further notice if the bill is not paid on, or before, ten (10) days after the discount date. The municipality shall not be liable for any damages resulting from discontinuing service under the provisions of this section, even though payment of the bill is made at any time on the day that service is actually discontinued.

Should the final date of payment of bill at the net rate fall on Sunday or a holiday, the business day next following the final date will be the last day to obtain the net rate. A net remittance received by mail after the time limit for payment at the net rate will be accepted by the municipality if the envelope is date-stamped on, or before, the final date for payment of the net amount.

If a meter fails to register properly, or if a meter is removed to be tested or repaired, or if water is received other than through a meter, the municipality reserves the right to render an estimated bill based on the best information available. (1997 Code, § 18-212)

**18-213. Discontinuance or refusal of service.** The governing body shall have the right to discontinue service or to refuse to connect service for a violation of, or a failure to comply with, any of the following:

- (1) These rules and regulations.
- (2) The customer's application for service.
- (3) The customer's contract for service.

Such right to discontinue service shall apply to all service received through a single connection or service, even though more than one (1) customer or tenant is furnished service therefrom, and even though the delinquency or violation is limited to only one (1) such customer or tenant.



Discontinuance of service by the municipality for any cause stated in these rules and regulations shall not release the customer from liability for service already received or from liability for payments that thereafter become due under other provisions of the customer's contract. (1997 Code, § 18-213)

**18-214. Re-connection charge.** Whenever service had been discontinued as provided for above, a re-connection charge of fifty dollars (\$50.00) from 8:00 A.M. until 4:00 P.M. (regular office hours), one hundred dollars (\$100.00) after hours, and one hundred fifty dollars (\$150.00) on weekends or holidays, shall be collected by the municipality before service is restored. (Ord. #21-01, April 2021)

**18-215. Termination of service by customer.** Customers who have fulfilled their contract terms and wish to discontinue service must give at least three (3) days' written notice to that effect unless the contract specifies otherwise. Notice to discontinue service prior to the expiration of a contract term will not relieve the customer from any minimum or guaranteed payment under such contract or applicable rate schedule.

When service is being furnished to an occupant of premises under a contract not in the occupant's name, the municipality reserves the right to impose the following conditions on the right of the customer to discontinue service under such a contract:

(1) Written notice of the customer's desire for such service to be discontinued may be required; and the municipality shall have the right to continue such service for a period of not to exceed ten (10) days after receipt of such written notice, during which time the customer shall be responsible for all charges for such service. If the municipality should continue service after such ten (10) day period subsequent to the receipt of the customer's written notice to discontinue service, the customer shall not be responsible for charges for any service furnished after the expiration of the ten (10) day period.

(2) During the ten (10) day period, or thereafter, the occupant of premises to which service has been ordered discontinued by a customer other than such occupant may be allowed by the municipality to enter into a contract for service in the occupant's own name upon the occupant's complying with these rules and regulations with respect to a new application for service. (1997 Code, § 18-215)

**18-216. Access to customers' premises.** The municipality's identified representatives and employees shall be granted access to all customers' premises at all reasonable times for the purpose of reading meters, for testing, inspecting, repairing, removing, and replacing all equipment belonging to the municipality, and for inspecting customers' plumbing and premises generally in order to secure compliance with these rules and regulations. (1997 Code, § 18-216)

**18-217. Inspections.** The municipality shall have the right, but shall not be obligated, to inspect any installation or plumbing system before water service is furnished or at any later time. The municipality reserves the right to refuse service or to discontinue service to any premises not meeting standards fixed by municipal ordinances regulating building and plumbing, or not in accordance with any special contract, these rules and regulations, or other requirements of the municipality.

Any failure to inspect or reject a customer's installation or plumbing system shall not render the municipality liable or responsible for any loss or damage which might have been avoided had such inspection or rejection been made. (1997 Code, § 18-217)

**18-218. Customer's responsibility for system's property.** Except as herein elsewhere expressly provided, all meters, service connections, and other equipment furnished by, or for, the municipality shall be and remain the property of the municipality. Each customer shall provide space for, and exercise proper care to protect, the property of the municipality on his premises. In the event of loss or damage to such property, arising from the neglect of a customer to care for it properly, the cost of necessary repairs or replacements shall be paid by the customer. (1997 Code, 18-218)

**18-219. Customer's responsibility for violations.** Where the municipality furnishes water service to a customer, such customer shall be responsible for all violations of these rules and regulations which occur on the premises so served. Personal participation by the customer in any such violations shall not be necessary to impose such personal responsibility on him. (1997 Code, § 18-219)

**18-220. Supply and resale of water.** All water shall be supplied within the municipality exclusively by the municipality and no customer shall, directly or indirectly, sell, sublet, assign, or otherwise dispose of the water, or any part thereof, except with written permission from the municipality. (1997 Code, § 18-220)

**18-221. Unauthorized use of or interference with water supply.** No person shall turn on or turn off any of the municipality's stop cocks, valves, hydrants, spigots, or fire plugs without permission or authority from the municipality. (1997 Code, § 18-221)

**18-222. Damages to property due to water pressure.** The municipality shall not be liable to any customer for damages caused to his plumbing or property by high pressure, low pressure, or fluctuations in pressure in the municipality's water mains. (1997 Code, § 18-222)

**18-223. Liability for cutoff failures.** The municipality's liability shall be limited to the forfeiture of the right to charge a customer for water that is not used but is received from a service line under any of the following circumstances:

(1) After receipt of at least ten (10) days' written notice to cut off water service, the municipality has failed to cut off such service.

(2) The municipality has attempted to cut off a service but such service has not been completely cut off.

(3) The municipality has completely cut off a service, but subsequently, the cutoff develops a leak or is turned on again so that water enters the customer's pipes from the municipality's main.

Except to the extent stated above, the municipality shall not be liable for any loss or damage resulting from cutoff failures. If a customer wishes to avoid possible damage for cutoff failures, the customer shall rely exclusively on privately owned cutoffs and not on the municipality's cutoff. Also, the customer (and not the municipality) shall be responsible for seeing that his plumbing is properly drained, and is kept properly drained, after his water service has been cut off. (1997 Code, § 18-223)

**18-224. Restricted use of water.** In times of emergencies or in times of water shortage, the municipality reserves the right to restrict the purposes for which water may be used by a customer and the amount of water which a customer may use. (1997 Code, § 18-224)

**18-225. Interruption of service.** The municipality will endeavor to furnish continuous water service, but does not guarantee to the customer any fixed pressure or continuous service. The municipality shall not be liable for any damages for any interruption of service whatsoever.

In connection with the operation, maintenance, repair, and extension of the municipal water and sewer system, the water supply may be shut off without notice when necessary or desirable, and each customer must be prepared for such emergencies. The municipality shall not be liable for any damages from such interruption of service or for damages from the resumption of service without notice after any such interruption. (1997 Code, § 18-225)

**18-226. Schedule of rates.** For all water furnished by the municipality shall be measured or estimated in gallons to the nearest multiple of one thousand (1,000) and shall be furnished under such rate schedules as the municipality may from time to time adopt by ordinance or resolution.<sup>1</sup> (1997 Code, § 18-226)

---

<sup>1</sup>Administrative ordinances and resolutions are of record in the office of the recorder.

**18-227. Fluoridation of water supply.** (1) The Water Department of the City of Greenbrier, Tennessee, is hereby authorized and instructed to make plans for the fluoridation of the water supply of the City of Greenbrier Tennessee: to submit such plans to the Department of Health of the State of Tennessee for approval, and upon approval to add such chemicals as fluoride to the water supply in accordance with such approval as will adequately provide for the fluoridation of said water supply.

(2) The cost of such fluoridation will be borne by the revenues of the Water Department of the City of Greenbrier, Tennessee. (1997 Code, § 18-227)

**18-228. Single-family dwelling connection fee.** (1) Each new equivalent single-family dwelling unit connection to the City of Greenbrier water system shall be charged a special water fee in the amount of six hundred dollars (\$600.00) plus a service charge of fifty dollars (\$50.00).

(2) An equivalent single-family dwelling unit connection is a unit of measurement equal to the amount of water that can be provided to a single-family dwelling unit connection through a three-fourths inch (3/4") water meter. The capacity fee charge per connection shall be determined by the water meter size and the number of equivalent single-family dwelling unit connections that can be provided through the meter. For the purpose of this section:

(a) A three-fourths inch (3/4") water meter provides one (1) equivalent single-family dwelling unit connection;

(b) A one-inch (1") meter provides 1.67 equivalent single-family dwelling unit connections;

(c) A two-inch (2") meter provides 5.33 equivalent single-family dwelling unit connections;

(d) A three-inch (3") meter provides 10.67 equivalent single-family dwelling unit connections;

(e) A four-inch (4") meter provides 16.67 equivalent single-family dwelling unit connections;

(f) A six-inch (6") meter provides 33.33 equivalent single-family dwelling unit connection;

(g) An eight-inch (8") meter provides 53.33 equivalent single-family dwelling unit connections;

(h) A ten-inch (10") meter provides 76.67 equivalent single-family dwelling unit connections; and

(i) A twelve-inch (12") meter provides 143.33 equivalent single-family dwelling unit connections.

(3) The special water fee charge and service charge shall be paid at the same time tap fees and other related charges for new water service connections are paid to the City of Greenbrier by its customers.

(4) The City of Greenbrier shall collect and forward to the City of Springfield the applicable special water fees.

(5) All ordinances, resolutions, and policies in conflict herewith shall be rescinded to the extent of the conflict only. (1997 Code, § 18-228, modified)

## CHAPTER 3

### GENERAL WASTEWATER REGULATIONS<sup>1</sup>

#### SECTION

- 18-301. Purpose and policy.
- 18-302. Administrative.
- 18-303. Definitions.
- 18-304. Proper waste disposal required.
- 18-305. Private domestic wastewater disposal.
- 18-306. Connection to public sewers.
- 18-307. Septic tank effluent pump or grinder pump wastewater systems.
- 18-308. Regulation of holding tank waste disposal or trucked in waste.
- 18-309. Discharge regulations.
- 18-310. Enforcement and abatement.

**18-301. Purpose and policy.** This chapter sets forth uniform requirements for users of the City of Greenbrier, Tennessee, wastewater treatment system and enables the city to comply with the Federal Clean Water Act ("CWA") and the State Water Quality Control Act and rules adopted pursuant to these acts. The objectives of this chapter are:

- (1) To protect public health;
- (2) To prevent the introduction of pollutants into the municipal wastewater treatment facility, which will interfere with the system operation;
- (3) To prevent the introduction of pollutants into the wastewater treatment facility that will pass through the facility, inadequately treated, into the receiving waters, or otherwise be incompatible with the treatment facility;
- (4) To protect facility personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
- (5) To promote reuse and recycling of industrial wastewater and sludge from the facility;
- (6) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the facility; and
- (7) To enable the city to comply with its National Pollution Discharge Elimination System (NPDES) permit conditions, sludge and biosolid use and disposal requirement, and any other federal or state industrial pretreatment rules to which the facility is subject.

In meeting these objectives, this chapter provides that all persons in the service area of the City of Greenbrier must have adequate wastewater treatment

---

<sup>1</sup>Municipal code references

Building, utility and residential codes: title 12.

Refuse disposal: title 17.

either in the form of a connection to the municipal wastewater treatment system or, where the system is not available, an appropriate private disposal system.

This chapter shall apply to all users inside or outside the city who are, by implied contract or written agreement with the city, dischargers of applicable wastewater to the wastewater treatment facility. Chapter 4 provides for the issuance of permits to system users for monitoring, compliance, and enforcement activities; and establishes administrative review procedures for industrial users or other users whose discharge can interfere with, or cause violations to occur at, the wastewater treatment facility. Chapter 4 details permitting requirements including the setting of fees for the full and equitable distribution of costs resulting from the operation, maintenance, and capital recovery of the wastewater treatment system and from other activities required by the enforcement and administrative program established herein. (1997 Code, § 18-301)

**18-302. Administrative.** Except as otherwise provided herein, the city superintendent shall serve as the local administrative officer and shall administer, implement, and enforce the provisions of this chapter. The board of mayor and aldermen shall serve as the local hearing authority. (1997 Code, § 18-302)

**18-303. Definitions.** Unless the context specifically indicates otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated:

(1) "0400-40-14." Chapter 0400-40-14 of the Rules and Regulations of the State of Tennessee, Pretreatment Requirements.

(2) "Act" or "the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act (CWA), as amended and found in 33 U.S.C. §§ 1251, *et seq.*

(3) "Administrator." The administrator or the United States Environmental Protection Agency.

(4) "Approval authority." The Tennessee Department of Environment and Conservation, Division of Water Pollution Control.

(5) "Authorized or duly authorized representative of industrial user."

(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, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(b) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(c) If the user is a federal, state, or local governmental 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 individual described in subsections (5)(a) to (5)(c) above may designate a duly authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the city.

(6) "Best Management Practices" or "BMPs." Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in § 18-309 of this chapter. "BMPs" also include treatment requirement, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

(7) "Biochemical Oxygen Demand" or "BOD." The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure for five (5) days at twenty degrees Centigrade (20°C) expressed in terms of weight and concentration (milligrams per liter (mg/l)).

(8) "Building sewer." A sewer conveying wastewater from the premises of a user to the publicly owned sewer collection system.

(9) "Categorical standards." The National Categorical Pretreatment Standards as found in 40 CFR chapter I, subchapter N, parts 405 to 471.

(10) "City." The Board of Mayor and Aldermen, City of Greenbrier, Tennessee.

(11) "Commissioner." The commissioner of environment and conservation, or the commissioner's duly authorized representative, and, in the event of the commissioner's absence or a vacancy in the office of commissioner, the deputy commissioner.

(12) "Compatible pollutant." BOD, suspended solids, pH, fecal coliform bacteria, and such additional pollutants as are now, or may in the future be, specified and controlled in the city's NPDES permit for its wastewater



treatment works where sewer works have been designed and used to reduce or remove such pollutants.

(13) "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.

(14) "Control authority." The "approval authority," defined herein above; or the local hearing authority if the city has an approved pretreatment program under the provisions of 40 CFR § 403.11.

(15) "Cooling water." The water discharge from any use such as air conditioning, cooling, or refrigeration, or to which the only pollutant added is heat.

(16) "Customer." Any individual, partnership, corporation, association, or group who receives sewer service from the city under either an express or implied contract requiring payment to the city for such service.

(17) "Daily maximum." The arithmetic average of all effluent samples for a pollutant (except pH) collected during a calendar day. The daily maximum for pH is the highest value tested during a twenty-four (24) hour calendar day.

(18) "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.

(19) "Direct discharge." The discharge of treated or untreated wastewater directly to the waters of the State of Tennessee.

(20) "Domestic wastewater." Wastewater that is generated by a single-family apartment or other dwelling unit or dwelling unit equivalent, or commercial establishment containing sanitary facilities for the disposal of wastewater and used for residential or commercial purposes only.

(21) "Environmental Protection Agency" or "EPA." The U.S. Environmental Protection Agency, or where appropriate, the term may also be used as a designation for the administrator, or other duly authorized official of the said agency.

(22) "Garbage." Solid wastes generated from any domestic, commercial or industrial source.

(23) "Grab sample." A sample which is taken from a waste stream on a one (1) time basis with no regard to the flow in the waste stream and is collected over a period of time not to exceed fifteen (15) minutes. Grab sampling procedure: Where composite sampling is not an appropriate sampling technique, a grab sample(s) shall be taken to obtain influent and effluent operational data. Collection of influent grab samples should precede collection of effluent samples by approximately one (1) detention period. The detention period is to be based on a twenty-four (24) hour average daily flow value. The average daily flow used will be based upon the average of the daily flows during the same month of the

previous year. Grab samples will be required, for example, where the parameters being evaluated are those, such as cyanide and phenol, which may not be held for any extended period because of biological, chemical or physical interactions which take place after sample collection and affect the results.

(24) "Grease interceptor." An interceptor whose rated flow is fifty gallons per minute (50 g.p.m.) or less and is generally located inside the building.

(25) "Grease trap." An interceptor whose rated flow is fifty gallons per minute (50 g.p.m.) or more and is located outside the building.

(26) "Holding tank waste." Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

(27) "Incompatible pollutant." Any pollutant which is not a "compatible pollutant" as defined in this section.

(28) "Indirect discharge." The introduction of pollutants into the WWF from any nondomestic source.

(29) "Industrial user." A source of indirect discharge which does not constitute a "discharge of pollutants" under regulations issued pursuant to section 402 of the Act (33 U.S.C. § 1342).

(30) "Industrial wastes." Any liquid, solid, or gaseous substance, or combination thereof, or form of energy including heat, resulting from any process of industry, manufacture, trade, food processing or preparation, or business, or from the development of any natural resource.

(31) "Instantaneous limit." The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

(32) "Interceptor." A device designed and installed to separate and retain for removal, by automatic or manual means, deleterious, hazardous or undesirable matter from normal wastes, while permitting normal sewage or waste to discharge into the drainage system by gravity.

(33) "Interference." A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the WWF, its treatment processes or operations, or its sludge processes, use or disposal, or exceeds the design capacity of the treatment works or collection system.

(34) "Local administrative officer." The chief administrative officer of the local hearing authority.

(35) "Local hearing authority." The board of mayor and aldermen, or such person or persons appointed by the board, to administer and enforce the provisions of this chapter and conduct hearings pursuant to § 18-405.

(36) "National categorical pretreatment standard." Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act (33 U.S.C. § 1317) which applies to a specific category of industrial users.

(37) "National Pollution Discharge Elimination System" or "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 Clean Water Act as amended.

(38) "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 Clean Water Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section; provided that:

(i) The building structure, facility or installation is constructed at a site at which no other source is located;

(ii) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(iii) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent factors, such as the extent to which the new facility is 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 (38)(a)(ii) or (38)(a)(iii) above but otherwise alters, replaces, or adds to existing process or production equipment.

(c) Construction of a new source, as defined under this subsection (38), 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.

(ii) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies, do not constitute a contractual obligation under this subsection (38).

(39) "North American Industrial Classification System" or "NAICS." A system of industrial classification jointly agreed upon by Canada, Mexico and the United States. It replaces the Standard Industrial Classification (SIC) system.

(40) "Pass-through." A discharge which exits the Wastewater Facility (WWF) into waters of the state in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the WWF's NPDES permit, including an increase in the magnitude or duration of a violation.

(41) "Person." Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents, or assigns. The masculine gender shall include the feminine and the singular shall include the plural where indicated by the context.

(42) "pH." The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

(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, and industrial, municipal, and agricultural waste and certain characteristics of wastewater (e.g., pH, temperature, turbidity, color, BOD, COD, toxicity, or odor discharge into water).

(44) "Pollution." The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

(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 a less harmful state prior to, or in lieu of, discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical, biological processes, or process changes or other means, except through dilution as prohibited by 40 CFR § 403.6(d).

(46) "Pretreatment coordinator." The person designated by the local administrative officer, or his authorized representative, to supervise the operation of the pretreatment program.

(47) "Pretreatment requirements." Any substantive or procedural requirement related to pretreatment other than a national pretreatment standard imposed on an industrial user.

(48) "Pretreatment standards" or "standards." A prohibited discharge standard, categorical pretreatment standard and local limit.

(49) "Publicly Owned Treatment Works" or "POTW." A treatment works as defined by section 212 of the Act (33 U.S.C. § 1292), which is owned in this instance by the municipality (as defined by section 502(4) of the Act). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid

nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW treatment plant. The term also means the municipality, as defined in section 502(4) of the Act, which has jurisdiction over the indirect discharges to, and the discharges from such a treatment works. See "WWF, Wastewater Facility," found in subsection (64) below.

(50) "Shall" is mandatory; "may" is permissive.

(51) "Significant industrial user." (a) All industrial users subject to categorical pretreatment standards under 40 CFR § 403.6 and 40 CFR chapter I, subchapter N.

(b) Any other industrial user that: discharges an average of twenty-five thousand (25,000) gallons per day or more of process wastewater to the WWF (excluding sanitary, non-contact cooling and boiler blowdown wastewater); contributes a process waste stream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the control authority as defined in 40 CFR § 403.12(a) on the basis that the industrial user has a reasonable potential for adversely affecting the WWF's operation or for violating any pretreatment standard or requirement (in accordance with 40 CFR § 403.8(f)(6)).

(52) "Significant noncompliance." Per 0400-40-14.08(6)(b)8:

(a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken for each parameter taken during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limit.

(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 exceeds the product of the numeric pretreatment standard or requirement, including instantaneous limits multiplied by the applicable TRC (TRC= 1.4 for BOD, TSS, fats, 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 or longer-term average, instantaneous limit, or narrative standard) that the WWF determines has caused, alone or in combination with other discharges, interference or pass-through (including endangering the health of WWF 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 WWF's exercise of its emergency authority under § 18-405(1)(b)(i)(D), "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, ninety (90) day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules.

(g) Failure to accurately report noncompliance.

(h) Any other violation, or group of violations, which may include a violation of best management practices which the WWF determines will adversely affect the operation or implementation of the local pretreatment program.

(i) Continuously monitored pH violations that exceed limits for a time period greater than fifty (50) minutes or exceed limits by more than 0.5 s.u. more than eight (8) times in four (4) hours.

(53) "Slug." 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 WWF's regulations, local limits, or permit conditions.

(54) "Standard Industrial Classification" or "SIC." A classification pursuant to the *Standard Industrial Classification Manual* issued by the Executive Office of the President, Office of Management and Budget, 1972.

(55) "State." The State of Tennessee.

(56) "Storm sewer" or "storm drain." A pipe or conduit which carries storm and surface waters and drainage, but excludes sewage and industrial wastes. It may, however, carry cooling waters and unpolluted waters, upon approval of the superintendent.

(57) "Stormwater." Any flow occurring during, or following, any form of natural precipitation and resulting therefrom.

(58) "Superintendent." The local administrative officer or person designated by him to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this chapter, or his duly authorized representative.

(59) "Suspended solids." The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquids and that is removable by laboratory filtering.

(60) "Toxic pollutant." Any pollutant or combination of pollutants listed as toxic in regulations published by the administrator of the Environmental Protection Agency under the provision of CWA 307(a) or other Acts.

(61) "Twenty-four (24) hour flow proportional composite sample." A sample consisting of several sample portions collected during a twenty-four (24) hour period in which the portions of a sample are proportioned to the flow and combined to form a representative sample.

(62) "User." The owner, tenant or occupant of any lot or parcel of land connected to a sanitary sewer, or for which a sanitary sewerline is available if a municipality levies a sewer charge on the basis of such availability.<sup>1</sup>

(63) "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 WWF.

(64) "Wastewater facility ("WWF")." Any or all of the following: the collection/transmission system, treatment plant, and the reuse or disposal system, which is owned by any person. This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial waste of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a WWF treatment plant. The term also means the municipality as defined in section 502(4) of the Federal Clean Water Act, being 33 U.S.C. § 1362, which has jurisdiction over the indirect discharges to, and the discharges from, such a treatment works. WWF was formally known as a POTW, or Publicly Owned Treatment Works.

(65) "Waters of the state." All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and other bodies of accumulation of water, surface or underground, natural or artificial, public or private, that are contained within, flow through, or border upon the state or any portion thereof. (1997 Code, § 18-303, modified)

**18-304. Proper waste disposal required.** (1) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the service area of the city, any human or animal excrement, garbage, or other objectionable waste.

(2) It shall be unlawful to discharge to any waters of the state within the service area of the city any sewage or other polluted waters, except where suitable treatment has been provided in accordance with provisions of this chapter or city or state regulations.

(3) Except as herein provided, it shall be unlawful to construct or maintain any privy, privy vault, cesspool, or other facility intended or used for the disposal of sewage.

(4) Except as provided in subsection (6) below, the owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes situated within the service area in which there is now located, or may in the future be located, a public sanitary sewer, is hereby required at his expense to install suitable toilet facilities therein, and to connect such

---

<sup>1</sup>State law reference

*Tennessee Code Annotated*, § 68-221-201.

facilities directly with the proper private or public sewer in accordance with the provisions of this chapter. Where public sewer is available, property owners shall, within sixty (60) days after date of official notice to do so, connect to the public sewer. Service is considered "available" when a public sewer main is located in an easement, right-of-way, road or public access way which abuts the property.

(5) Where a public sanitary sewer is not available under the provisions of subsection (4) above, the building sewer shall be connected to a private sewage disposal system complying with the provisions of § 18-305 of this chapter.

(6) The owner of a manufacturing facility may discharge wastewater to the waters of the state; provided that he obtains an NPDES permit and meets all requirements of the Federal Clean Water Act, the NPDES permit, and any other applicable local, state, or federal statutes and regulations. (1997 Code, § 18-304)

**18-305. Private domestic wastewater disposal.** (1) Availability.

(a) Where a public sanitary sewer is not available under the provisions of § 18-304(4), the building sewer shall be connected, until the public sewer is available, to a private wastewater disposal system complying with the provisions of the applicable local and state regulations.

(b) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the city. When it becomes necessary to clean septic tanks, the sludge may be disposed of only according to applicable federal and state regulations.

(c) Where a public sewer becomes available, the building sewer shall be connected to said sewer within sixty (60) days after the date of official notice from the city to do so.

(2) Requirements. (a) The type, capacity, location and layout of a private sewerage disposal system shall comply with all local or state regulations. Before commencement of construction of a private sewerage disposal system, the owner shall first obtain a written approval from the county health department. The application for such approval shall be made on a form furnished by the county health department which the applicant shall supplement with any plans or specifications that the department has requested.

(b) Approval for a private sewerage disposal system shall not become effective until the installation is completed to the satisfaction of the local and state authorities, who shall be allowed to inspect the work at any stage of construction.

(c) The type, capacity, location, and layout of a private sewage disposal system shall comply with all recommendations of the Tennessee Department of Environment and Conservation, and the county health



department. No septic tank or cesspool shall be permitted to discharge to waters of Tennessee.

(d) No statement contained in this chapter shall be construed to interfere with any additional or future requirements that may be imposed by the city and the county health department. (1997 Code, § 18-305)

**18-306. Connection to public sewers.**<sup>1</sup> (1) Application for service.

(a) There shall be two (2) classifications of service:

(i) Residential; and

(ii) Service to commercial, industrial and other nonresidential establishments.

In either case, the owner, or his agent, shall make application for connection on a special form furnished by the city. Applicants for service to commercial and 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 the superintendent. Details regarding commercial and industrial permits include, but are not limited to, those required by this chapter. Service connection fees for establishing new sewer service are paid to the city. Industrial user discharge permit fees may also apply. The receipt by the city of a prospective customer's application for connection shall not obligate the city to render the connection. If the service applied for cannot be supplied in accordance with this chapter and the city's rules and regulations and general practice, or state and federal requirement, the connection charge will be refunded in full, and there shall be no liability of the city to the applicant for such service.

(b) Users shall notify the city of any proposed new introduction of wastewater constituents or any proposed change in the volume or character of the wastewater being discharged to the system a minimum of sixty (60) days prior to the change. The city may deny or limit this new introduction or change based upon the information submitted in the notification.

(2) Prohibited connections. 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 groundwater to a building sewer or building drain which, in turn, is connected directly or indirectly to a public sanitary sewer. Any such connections which already exist on the effective date of the ordinance comprising this chapter shall

---

<sup>1</sup>Ordinances setting and amending sewer tap fees and may be found in the recorder's office.

be completely and permanently disconnected within sixty (60) days of the effective day of the ordinance comprising this chapter. The owners of any building sewer having such connections, leaks or defects shall bear all of the costs incidental to removal of such sources. Pipes, sumps and pumps for such sources of groundwater shall be separate from the sanitary sewer.

(3) Physical connection to public sewer. (a) No person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof. The city shall make all connections to the public sewer upon the property owner first submitting a connection application to the city.

The connection application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the superintendent. A service connection fee shall be paid to the city at the time the application is filed.

The applicant is responsible for excavation and installation of the building sewer which is located on private property. The city will inspect the installation prior to backfilling and make the connection to the public sewer.

(b) All costs and expenses incident to the installation, connection, and inspection of the building sewer shall be borne by the owner, including all service and connection fees. The owner shall indemnify the city from any loss or damage that may, directly or indirectly, be occasioned by the installation of the building sewer.

(c) A separate and independent building sewer shall be provided for every building; except where one (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, courtyard, 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. Where property is subdivided and buildings use a common building sewer are now located on separate properties, the building sewers must be separated within sixty (60) days.

(d) Old building sewers may be used in connection with new buildings only when they are found, on examination and tested by the superintendent, to meet all requirements of this chapter. All others may be sealed to the specifications of the superintendent.

(e) Building sewers shall conform to the following requirements:

(i) The minimum size of a building sewer shall be as follows: Conventional sewer system—four inches (4").

(ii) The minimum depth of a building sewer shall be eighteen inches (18").

(iii) Building sewers shall be laid on the following grades: Four inch (4") sewers—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.

(iv) Building sewers shall be installed in uniform alignment at uniform slopes.

(v) Building sewers shall be constructed only of polyvinyl chloride pipe schedule 40 or better. Joints shall be solvent welded or compression gaskets designed for the type of pipe used. No other joints shall be acceptable.

(vi) Cleanouts shall be provided to allow cleaning in the direction of flow. A cleanout shall be located five feet (5') outside of the building as it crosses the property line, and one (1) 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 six-inch (6") 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 and protected from damage. A "Y" (wye) and one-eighth (1/8) bend shall be used for the cleanout base. Cleanouts shall not be smaller than four inches (4"). Blockages on the property owner's side of the property line cleanout are the responsibility of the property owner.

(vii) Connections of building sewers to the public sewer system shall be made only by the city and shall be made at the appropriate existing wyes or tee branch using compression type couplings or collar type rubber joint with stainless steel bands. Where existing wye or tee branches are not available, connections of building services shall be made by either removing a length of pipe and replacing it with a wye or tee fitting using flexible neoprene adapters with stainless steel bands of a type approved by the superintendent. Bedding must support pipe to prevent damage or sagging. All such connections shall be made gastight and watertight.

(viii) In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved pump system according to § 18-307 and discharged to the building sewer at the expense of the owner.

(ix) The methods to be used in excavating, placing of pipe, jointing, testing, backfilling the trench, or other activities in the construction of a building sewer which have not been described above shall conform to the requirements of the building and plumbing code, or other applicable rules and regulations of the city

or to the procedures set forth in appropriate specifications by the ASTM. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installation.

(x) An installed building sewer shall be gastight and watertight.

(f) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

(g) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, basement drains, sump pumps, or other sources of surface runoff or groundwater to a building, directly or indirectly, to a public sanitary sewer.

(h) Inspection of connections.

(i) The sewer connection and all building sewers from the building to the public sewer main line shall be inspected before the underground portion is covered by the superintendent, or his authorized representative.

(ii) The applicant for discharge shall notify the superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the superintendent, or his representative.

(4) Maintenance of building sewers. Each individual property owner shall be entirely responsible for the construction, maintenance, repair or replacement of the building sewer as deemed necessary by the superintendent to meet specifications of the city. Owners failing to maintain or repair building sewers, or who allow stormwater or groundwater to enter the sanitary sewer, may face enforcement action by the superintendent up to, and including, discontinuation of water and sewer service.

(5) Sewer extensions. All expansion or extension of the public sewer constructed by property owners or developers must follow policies and procedures developed by the city. In the absence of policies and procedures the expansion or extension of the public sewer must be approved, in writing, by the superintendent or manager of the wastewater collection system. All plans and construction must follow the latest edition of *Tennessee Design Criteria for Sewer Works*, located at:

<http://www.state.tn.us/environment/wpc/publications/>.

Contractors must provide the superintendent or manager with as-built drawing and documentation that all mandrel, pressure and vacuum tests as specified in design criteria were acceptable prior to use of the lines. Contractor's one (1) year warranty period begins with occupancy or first permanent use of the lines. Contractors are responsible for all maintenance and repairs during the

warranty period and final inspections as specified by the superintendent or manager. The superintendent or manager must give written approval to the contractor to acknowledge transfer of ownership to the city. Failure to construct or repair lines to acceptable standards could result in denial or discontinuation of sewer service.

- (6) Sewer taps.  
 Inside city limits residential  
     4-inch tap \$2,500.00  
 Inside city limits commercial  
     6-inch tap \$4,000.00  
 Outside city limits residential  
     4-inch tap \$2,500.00

(1997 Code, § 18-306, as amended by Ord. #23-06, Aug. 2023)

**18-307. Septic tank effluent pump or grinder pump wastewater systems.** When connection of building sewers to the public sewer by gravity flow lines is impossible due to elevation differences or other encumbrances, Septic Tank Effluent Pump (STEP) or Grinder Pump (GP) systems may be installed subject to the regulations of the city.

(1) Equipment requirements. (a) Septic tanks shall be of watertight construction and must be approved by the city.

(b) Pumps must be approved by the city and shall be maintained by the city.

(2) Installation requirements. Location of tanks, pumps, and effluent lines shall be subject to the approval of the city. Installation shall follow design criteria for STEP and GP systems as provided by the superintendent.

(3) Costs. STEP and GP equipment for new construction shall be purchased and installed at the developer's, homeowner's, or business owner's expense according to the specification of the city and connection will be made to the city sewer only after inspection and approval of the city.

(4) Ownership and easements. Homeowners or developers shall provide the city with ownership of the equipment and an easement for access to perform necessary maintenance or repair. Access by the city to the STEP and GP system must be guaranteed to operate, maintain, repair, restore service, and remove sludge. Access manholes, ports, and electrical disconnects must not be locked, obstructed or blocked by landscaping or construction.

(5) Use of STEP and GP systems. (a) Home or business owners shall follow the STEP and GP users guide provided by the superintendent.

(b) Home or business owners shall provide an electrical connection that meets specifications and shall provide electrical power.

(c) Home or business owners shall be responsible for maintenance of drain lines from the building to the STEP and GP tank.

(d) Prohibited uses of the STEP and GP system.

- (i) Connection of roof guttering, sump pumps or surface drains.
  - (ii) Disposal of toxic household substances.
  - (iii) Use of garbage grinders or disposers.
  - (iv) Discharge of pet hair, lint, or home vacuum water.
  - (v) Discharge of fats, grease, and oil.
- (6) Tank cleaning. Solids removal from the septic tank shall be the responsibility of the city. However, pumping required more frequently than once every five (5) years shall be billed to the homeowner.
- (7) Additional charges. The city shall be responsible for maintenance of the STEP and GP equipment. Repeat service calls for similar problems shall be billed to the homeowner or business at a rate of no more than the actual cost of the service call. (1997 Code, § 18-307)

**18-308. Regulation of holding tank waste disposal or trucked in waste.** (1) No person, firm, association or corporation shall haul in or truck in to the WWF any type of domestic, commercial or industrial waste unless such person, firm, association, or corporation obtains a written approval from the city to perform such acts or services.

Any person, firm, association, or corporation desiring a permit to perform such services shall file an application on the prescribed form. Upon any such application, said permit shall be issued by the superintendent when the conditions of this chapter have been met; and, provided, the superintendent is satisfied the applicant has adequate and proper equipment to perform the services contemplated in a safe and competent manner.

(2) Fees. For each permit issued under the provisions of this chapter, the applicant shall agree, in writing, by the provisions of this section and pay an annual service charge to the city to be set as specified in § 18-407. Any such permit granted shall be for a specified period of time, and shall continue in full force and effect from the time issued until the expiration date, unless sooner revoked, and shall be nontransferable. The number of the permit granted hereunder shall be plainly painted in three inch (3") permanent letters on each side of each motor vehicle used in the conduct of the business permitted hereunder.

(3) Designated disposal locations. The superintendent shall designate approved locations for the emptying and cleansing of all equipment used in the performance of the services rendered under the permit herein provided for, and it shall be a violation hereof for any person, firm, association or corporation to empty or clean such equipment at any place other than a place so designated. The superintendent may refuse to accept any truckload of waste at his discretion where it appears that the waste could interfere with the operation of the WWF.

(4) Revocation of permit. Failure to comply with all the provisions of the permit or this chapter shall be sufficient cause for the revocation of such

permit by the superintendent. The possession within the service area by any person of any motor vehicle equipped with a body type and accessories of a nature and design capable of serving a septic tank of wastewater or excreta disposal system cleaning unit shall be prima facie evidence that such person is engaged in the business of cleaning, draining, or flushing septic tanks or other wastewater or excreta disposal systems within the service area of the City of Greenbrier.

(5) Trucked in waste. This subsection (5) includes waste from trucks, railcars, barges, etc., or temporarily pumped waste, all of which are prohibited without a permit issued by the superintendent. This approval may require testing, flow monitoring and record keeping. (1997 Code, § 18-308)

**18-309. Discharge regulations.** (1) General discharge prohibitions. No user shall contribute, or cause to be contributed, directly or indirectly, any pollutant or wastewater which will pass-through or interfere with the operation and performance of the WWF. These general prohibitions apply to all such users of a WWF whether or not the user is subject to national categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements. Violations of these general and specific prohibitions, the provisions of this section, or other pretreatment standards may result in the issuance of an industrial pretreatment permit, surcharges, discontinuance of water and/or sewer service and other fines and provisions of §§ 18-310 or 18-405.

A user may not contribute the following substances to any WWF:

(a) Any liquids, solids, or gases which, by reason of their nature or quantity, are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion, or be injurious in any other way to the WWF or to the operation of the WWF. Prohibited flammable materials including, but not limited to, waste streams with a closed cup flash point of less than one hundred forty degrees Fahrenheit (140°F) or sixty degrees Centigrade (60°C) using the test methods specified in 40 CFR § 261.21. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromate, carbides, hydrides and sulfides, and any other substances which the city, the state or EPA has notified the user is a fire hazard or a hazard to the system.

(b) Any wastewater having a pH less than 5.5 or higher than 9.5 or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the WWF.

(c) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities, including, but not limited to: grease, garbage with particles greater than one-half inch (1/2") in any dimension, waste from animal slaughter, ashes, cinders, sand, spent lime, stone or

marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, mud, or glass grinding or polishing wastes.

(d) Any pollutants, including oxygen demanding pollutants (BOD, etc.), released at a flow rate and/or pollutant concentration which will cause interference to the WWF.

(e) Any wastewater having a temperature which will inhibit biological activity in the WWF treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the WWF which exceeds forty degrees Centigrade (40°C) (one hundred four degrees Fahrenheit (104°F)) unless approved by the State of Tennessee.

(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 WWF in a quantity that may cause acute worker health and safety problems.

(h) Any wastewater containing any toxic pollutants, chemical elements, or compounds in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans, including wastewater plant and collection system operators, or animals, create a toxic effect in the receiving waters of the WWF, 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.

(i) Any trucked or hauled pollutants except at discharge points designated by the WWF.

(j) Any substance which may cause the WWF's effluent, or any other product of the WWF such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the WWF cause the WWF to be in noncompliance with sludge use or disposal criteria, 40 CFR 503, guidelines, or regulations developed under section 405 of the Act, any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, being 42 U.S.C. §§ 6901, *et seq.*, the Clean Air Act, being 42 U.S.C. §§ 7401, *et seq.*, the Toxic Substances Control Act, being 15 U.S.C. § 2601, *et seq.*, or state criteria applicable to the sludge management method being used.

(k) Any substances which will cause the WWF to violate its NPDES permit or the receiving water quality standards.

(l) 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.

(m) Any waters or wastes causing an unusual volume of flow or concentration of waste constituting "slug," as defined herein.

(n) Any waters containing any radioactive wastes or isotopes of such halflife or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations.

(o) Any wastewater which causes a hazard to human life or creates a public nuisance.

(p) Any waters or wastes containing animal or vegetable fats, wax, grease, or oil, whether emulsified or not, which cause accumulations of solidified fat in pipes, lift stations and pumping equipment, or interfere at the treatment plant.

(q) Detergents, surfactants, surface-acting agents or other substances which may cause excessive foaming at the WWF or pass-through of foam.

(r) Wastewater causing, alone or in conjunction with other sources, the WWF to fail toxicity tests.

(s) Any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the superintendent and the Tennessee Department of Environment and Conservation. Industrial cooling water or unpolluted process waters may be discharged on approval of the superintendent and the Tennessee Department of Environment and Conservation, to a storm sewer or natural outlet.

(2) Local limits. In addition to the general and specific prohibitions listed in this section, users permitted according to chapter 4 may be subject to numeric and best management practices as additional restrictions to their wastewater discharge in order to protect the WWF from interference or protect the receiving waters from pass-through contamination.

(3) Restrictions on wastewater strength. No person or user shall discharge wastewater which exceeds the set of standards provided in Table A - Plant Protection Criteria, unless specifically allowed by their discharge permit according to chapter 4. Dilution of any wastewater discharge for the purpose of satisfying these requirements shall be considered in violation of this chapter.

**Table A - Plant Protection Criteria**

<b><u>Parameter</u></b>	<b><u>Maximum Concentration (mg/l)</u></b>
Arsenic	0.016454
Benzene	0.01304
Cadmium	0.0082859
Carbon Tetrachloride	1.50
Chloroform	0.15179
Chromium III	0.375
Chromium VI	0.06875
Copper	0.265
Cyanide	0.01368
Ethylbenzene	0.040
Lead	0.03296
Mercury	0.00021
Methylene Chloride	0.09615
Naphthalene	0.00714
Nickel	0.16138
Total Phenol	0.14706
Silver	0.01389
Tetrachloroethylene	0.13889
Toluene	0.21429
Total Phthalate	0.14659
Trichlorethlene	0.10
1,1,1-Trichloroethane	0.250
1,2 Transdichloroethylene	0.0075
Zinc	0.290

(4) Fats, oils and grease traps and interceptors. (a) Fat, Oil, and Grease (FOG), waste food, and sand interceptors. FOG, waste food and sand interceptors shall be installed when, in the opinion of the superintendent, they are necessary for the proper handling of liquid wastes containing fats, oils, and grease, any flammable wastes, ground food waste, sand, soil, and solids, or other harmful ingredients in excessive amount which impact the wastewater collection system. Such interceptors shall not be required for single-family residences, but may be required on multiple-family residences. All interceptors shall be of a

type and capacity approved by the superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection.

(b) Fat, oil, grease, and food waste. (i) New construction and renovation. Upon construction or renovation, all restaurants, cafeterias, hotels, motels, hospitals, nursing homes, schools, grocery stores, prisons, jails, churches, camps, caterers, manufacturing plants and any other sewer users who discharge applicable waste shall submit a FOG and food waste control plan that will effectively control the discharge of FOG and food waste.

(ii) Existing structures. All existing restaurants, cafeterias, hotels, motels, hospitals, nursing homes, schools, grocery stores, prisons, jails, churches, camps, caterers, manufacturing plants and any other sewer users who discharge applicable waste shall be required to submit a plan for control of FOG and food waste, if and when the superintendent determines that FOG and food waste are causing excessive loading, plugging, damage or potential problems to structures or equipment in the public sewer system.

(iii) Implementation of plan. After approval of the FOG plan by the superintendent, the sewer user must:

(A) Implement the plan within a reasonable amount of time; and

(B) Service and maintain the equipment in order to prevent impact upon the sewer collection system and treatment facility. If, in the opinion of the superintendent, the user continues to impact the collection system and treatment plan, additional pretreatment may be required, including a requirement to meet numeric limits and have surcharges applied.

(c) Sand, soil, and oil interceptors. All car washes, truck washes, garages, service stations and other sources of sand, soil, and oil shall install effective sand, soil, and oil interceptors. These interceptors shall be sized to effectively remove sand, soil, and oil at the expected flow rates. The interceptors shall be cleaned on a regular basis to prevent impact upon the wastewater collection and treatment system. Owners whose interceptors are deemed to be ineffective by the superintendent may be asked to change the cleaning frequency or to increase the size of the interceptors. Owners or operators of washing facilities will prevent the inflow of rainwater into the sanitary sewers.

(d) Laundries. Commercial laundries shall be equipped with an interceptor with a wire basket or similar device, removable for cleaning, that prevents passage into the sewer system of solids one-half inch (1/2") or larger in size such as strings, rags, buttons, or other solids detrimental to the system.

(e) Control equipment. The equipment of facilities installed to control FOG, food waste, sand and soil must be designed in accordance with the Tennessee Department of Environment and Conservation engineering standards or applicable city guidelines. Underground equipment shall be tightly sealed to prevent inflow of rainwater and easily accessible to allow regular maintenance. Control equipment shall be maintained by the owner or operator of the facility so as to prevent a stoppage of the public sewer, and the accumulation of FOG in the lines, pump stations and treatment plant. If the city is required to clean out the public sewerlines as a result of a stoppage resulting from poorly maintained control equipment, the property owner shall be required to refund the labor, equipment, materials and overhead costs to the city. Nothing in this subsection (4) shall be construed to prohibit or restrict any other remedy the city has under this chapter, or state or federal law. The city retains the right to inspect and approve installation of control equipment.

(f) Solvents prohibited. The use of degreasing or line cleaning products containing petroleum based solvents is prohibited. The use of other products for the purpose of keeping FOG dissolved or suspended until it has traveled into the collection system of the city is prohibited.

(g) The superintendent may use industrial wastewater discharge permits under § 18-402 to regulate the discharge of fat, oil and grease. (1997 Code, § 18-309, modified)

**18-310. Enforcement and abatement.** Violators of these wastewater regulations may be cited to city court, general sessions court, chancery court, or other court of competent jurisdiction, face fines, have sewer service terminated or the city may seek further remedies as needed to protect the collection system, treatment plant, receiving stream and public health including the issuance of discharge permits according to chapter 4. Repeated or continuous violation of this chapter is declared to be a public nuisance and may result in legal action against the property owner and/or occupant and the service line disconnected from sewer main. Upon notice by the superintendent that a violation has, or is, occurring, the user shall immediately take steps to stop or correct the violation. The city may take any or all the following remedies:

(1) Cite the user to city or general sessions court, where each day of violation shall constitute a separate offense.

(2) In an emergency situation where the superintendent has determined that immediate action is needed to protect the public health, safety or welfare, a public water supply or the facilities of the sewerage system, the superintendent may discontinue water service or disconnect sewer service.

(3) File a lawsuit in chancery court or any other court of competent jurisdiction seeking damages against the user, and further seeking an injunction prohibiting further violations by user.

(4) Seek further remedies as needed to protect the public health, safety or welfare, the public water supply or the facilities of the sewerage system. (1997 Code, § 18-310)

## CHAPTER 4

### INDUSTRIAL/COMMERCIAL WASTEWATER REGULATIONS

#### SECTION

- 18-401. Industrial pretreatment.
- 18-402. Discharge permits.
- 18-403. Industrial user additional requirements.
- 18-404. Reporting requirements.
- 18-405. Enforcement response plan.
- 18-406. Enforcement response guide table.
- 18-407. Fees and billing.
- 18-408. Validity.

**18-401. Industrial pretreatment.** In order to comply with Federal Industrial Pretreatment Rules 40 CFR 403 and Tennessee Pretreatment Rules 0400-40-14, and to fulfill the purpose and policy of this chapter, the following regulations are adopted.

(1) User discharge restrictions. All system users must follow the general and specific discharge regulations specified in § 18-309.

(2) Users wishing to discharge pollutants at higher concentrations than Table A - Plant Protection Criteria of § 18-309, 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 § 18-405.

(3) Discharge regulation. Discharges to the sewer system shall be regulated through use of a permitting system. The permitting system may include any or all of the following activities: completion of survey/application forms, issuance of permits, oversight of users monitoring and permit compliance, use of compliance schedules, inspections of industrial processes, wastewater processing, and chemical storage, public notice of permit system changes and public notice of users found in significant noncompliance.

(4) Discharge permits shall limit concentrations of discharge pollutants to those levels that are established as local limits, Table B below or other applicable state and federal pretreatment rules which may take effect after the passage of the ordinance comprising this chapter.

**Table B - Local Limits**

<b><u>Parameter</u></b>	<b><u>Monthly Average* Maximum Concentration (mg/l)</u></b>	<b><u>Daily Maximum Concentration (mg/l)</u></b>
Arsenic	0.09485	0.1897
Benzene	0.07464	0.14927
Cadmium	0.04649	0.09299
Carbon tetrachloride	8.87744	17.7549
Chloroform	0.87356	1.74712
Chromium III	2.1944	4.3888
Chromium VI	0.36092	0.72184
Copper	1.46512	2.93024
Cyanide	0.03747	0.07493
Ethylbenzene	0.23424	0.46848
Lead	0.19256	0.38513
Mercury	0.00123	0.00246
Methylene chloride	0.55641	1.11282
Naphthalene	0.02947	0.05894
Nickel	0.93909	1.87818
Phenol	0.51117	1.02234
Silver	0.07967	0.15934
Tetrachloroethylene	0.81967	1.63934
Toluene	1.2558	2.51159
Total Phthalate	0.2593	0.5186
Trichlorethlene	0.58944	1.17888
1,1,1-Trichloroethane	1.47744	2.95488
1,2 Transdichloroethylene	0.04184	0.08368
Zinc	1.39424	2.78848

(5) Surcharge limits and maximum concentrations. Dischargers of high strength waste may be subject to surcharges based on the following surcharge limits. Maximum concentrations may also be established for some users.

**Table C - Surcharge and Maximum Limits, mg/l**

<b><u>Parameter</u></b>	<b><u>Surcharge Limit</u></b>	<b><u>Maximum Concentration</u></b>
Ammonia nitrogen	40	50
Oil and grease	100	150
BOD	300	450
Suspended solids	300	300

(6) Protection of treatment plant influent. The pretreatment coordinator shall monitor the treatment works influent for each parameter in Table A - Plant Protection Criteria found in § 18-309. Industrial users shall be subject to reporting and monitoring requirements regarding these parameters as set forth in this chapter. In the event that the influent at the WWF reaches or exceeds the levels established by Table A or subsequent criteria calculated as a result of changes in pass-through limits issued by the Tennessee Department of Environment and Conservation, the pretreatment coordinator shall initiate technical studies to determine the cause of the influent violation and shall recommend to the city the necessary remedial measures, including, but not limited to, recommending the establishment of new or revised local limits, best management practices, or other criteria used to protect the WWF. The pretreatment coordinator shall also recommend changes to any of these criteria in the event that: the WWF effluent standards are changed, there are changes in any applicable law or regulation affecting same, or changes are needed for more effective operation of the WWF.

(7) User inventory. The superintendent will maintain an up-to-date inventory of users whose waste does or may fall into the requirements of this chapter, and will notify the users of their status.

(8) Right to establish more restrictive criteria. No statement in this chapter is intended, or may be construed, to prohibit the pretreatment coordinator from establishing specific wastewater discharge criteria which are more restrictive when wastes are determined to be harmful or destructive to the facilities of the WWF or to create a public nuisance, or to cause the discharge of the WWF to violate effluent or stream quality standards, or to interfere with the use or handling of sludge, or to pass through the WWF resulting in a violation of the NPDES permit, or to exceed industrial pretreatment standards for discharge to municipal wastewater treatment systems as imposed, or as may be imposed, by the Tennessee Department of Environment and Conservation and/or the United States Environmental Protection Agency. (1997 Code, § 18-401, modified)

**18-402. Discharge permits.** (1) Application for discharge of commercial or industrial wastewater. All users or prospective users which generate



commercial or industrial wastewater shall make application to the superintendent for connection to the municipal wastewater treatment system. 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 industrial or wastewater treatment process. Connection to the city sewer or changes in the industrial process or wastewater treatment process shall not be made until the application is received and approved by the superintendent, the building sewer is installed in accordance with § 18-306 of this chapter and an inspection has been performed by the superintendent, or his representative.

The receipt by the city of a prospective customer's application for connection shall not obligate the city to render the connection. If the service applied for cannot be supplied in accordance with this chapter and the city's rules and regulations and general practice, the connection charge will be refunded in full, and there shall be no liability of the city to the applicant for such service.

(2) Industrial wastewater discharge permits. (a) General requirements. All industrial users proposing to connect to, or to contribute to, the WWF shall apply for service and apply for a discharge permit before connecting to, or contributing to, the WWF. All existing industrial users connected to, or contributing to, the WWF may be required to apply for a permit within one hundred eighty (180) days after the effective date of the ordinance comprising this chapter.

(b) Applications. Applications for wastewater discharge permits shall be required as follows:

(i) Users required by the superintendent to obtain a wastewater discharge permit shall complete and file with the pretreatment coordinator an application on a prescribed form accompanied by the appropriate fee.

(ii) The application shall be in the prescribed form of the city and shall include, but not be limited to, the following information: name, address, and SIC/NAICS number of applicant; wastewater volume; wastewater constituents and characteristic, including, but not limited to, those mentioned in § 18-309 and § 18-401 discharge variations—daily, monthly, seasonal and thirty (30) minute peaks; a description of all chemicals handled on the premises, each product produced by type, amount, process or processes and rate of production, type and amount of raw materials, number and type of employees, hours of operation, site plans, floor plans, mechanical and plumbing plans and details showing all sewers and appurtenances by size, location and elevation; a description of existing and proposed pretreatment

and/or equalization facilities; and any other information deemed necessary by the pretreatment coordinator.

(iii) Any user who elects or is required to construct new or additional facilities for pretreatment shall, as part of the application for wastewater discharge permit, submit plans, specifications and other pertinent information relative to the proposed construction to the pretreatment coordinator for approval. A wastewater discharge permit shall not be issued until such plans and specifications are approved. Approval of such plans and specifications shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city under the provisions of this chapter.

(iv) If additional pretreatment and/or operations and maintenance will be required to meet the pretreatment standards, the application shall include the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. For the purpose of this subsection (2), "pretreatment standard" shall include either a national pretreatment standard or a pretreatment standard imposed by this chapter.

(v) The city will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the city may issue a wastewater discharge permit subject to terms and conditions provided herein.

(vi) The receipt by the city of a prospective customer's application for wastewater discharge permit shall not obligate the city to render the wastewater collection and treatment service. If the service applied for cannot be supplied in accordance with this chapter or the city's rules and regulations and general practice, the application shall be rejected and there shall be no liability of the city to the applicant of such service.

(vii) The pretreatment coordinator will act only on applications containing all the information required in this section. Persons who have filed incomplete applications will be notified by the pretreatment coordinator that the application is deficient and the nature of such deficiency and will be given thirty (30) days to correct the deficiency. If the deficiency is not corrected within thirty (30) days or within such extended period as allowed by the local administrative officer, the local administrative officer shall deny the application and notify the applicant in writing of such action.

(viii) Applications shall be signed by the duly authorized representative.

(c) Permit conditions. Wastewater discharge permits shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges and fees established by the city.

(i) Permits shall contain the following:

(A) Statement of duration;

(B) Provisions of transfer;

(C) Effluent limits, including best management practices, based on applicable pretreatment standards in this chapter, state rules, categorical pretreatment standards, local, state, and federal laws;

(D) Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or best management practice) to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law;

(E) Statement of applicable civil and criminal penalties for violations of pretreatment standards and the requirements of any applicable compliance schedule. Such schedules shall not extend the compliance date beyond the applicable federal deadlines;

(F) Requirements to control slug discharges, if determined by the WWF to be necessary; and

(G) Requirement to notify the WWF immediately if changes in the user's processes affect the potential for a slug discharge.

(ii) Additionally, permits may contain the following:

(A) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;

(B) Requirements for installation and maintenance of inspection and sampling facilities;

(C) Compliance schedules;

(D) Requirements for submission of technical reports or discharge reports;

(E) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the city, and affording city access thereto;

(F) Requirements for notification of the city sixty (60) days prior to implementing any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system, and of any changes in industrial processes that would affect wastewater quality or quantity;

(G) Prohibition of bypassing pretreatment or pretreatment equipment;

(H) Effluent mass loading restrictions; and

(I) Other conditions as deemed appropriate by the city to ensure compliance with this chapter.

(d) Permit modification. The terms and conditions of the permit may be subject to modification by the pretreatment coordinator during the term of the permit as limitations or requirements are modified or other just cause exists. The user shall be informed of any proposed changes in this permit at least sixty (60) days prior to the effective date of change. Except in the case where federal deadlines are shorter, in which case the federal rule must be followed. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(e) Permit duration. Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit renewal a minimum of one hundred eighty (180) days prior to the expiration of the user's existing permit.

(f) Permit transfer. Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the written approval of the city. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit. The permit holder must provide the new owner with a copy of the current permit.

(g) Revocation of permit. Any permit issued under the provisions of this chapter is subject to be modified, suspended, or revoked in whole or in part during its term for cause including, but not limited to, the following:

(i) Violation of any terms or conditions of the wastewater discharge permit or other applicable federal, state, or local law or regulation.

(ii) Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts.

(iii) A change in:

(A) Any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge;

(B) Strength, volume, or timing of discharges; and/or

(C) Addition or change in process lines generating wastewater.

(iv) Intentional failure of a user to accurately report the discharge constituents and characteristics or to report significant changes in plant operations or wastewater characteristics.

(3) Confidential information. All information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspection shall be available to the public or any governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the pretreatment coordinator that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets of the user.

When requested by the person furnishing the report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available to governmental agencies for use related to this chapter or the city's or user's NPDES permit; provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

Information accepted by the pretreatment coordinator as confidential shall not be transmitted to any governmental agency or to the general public by the pretreatment coordinator until and unless prior and adequate notification is given to the user. (1997 Code, § 18-402)

**18-403. Industrial user additional requirements.** (1) Monitoring facilities. The installation of a monitoring facility shall be required for all industrial users. A monitoring facility shall be a manhole or other suitable facility approved by the pretreatment coordinator.

When in the judgment of the pretreatment coordinator, there is a significant difference in wastewater constituents and characteristics produced by different operations of a single user the pretreatment coordinator may require that separate monitoring facilities be installed for each separate source of discharge.

Monitoring facilities that are required to be installed shall be constructed and maintained at the user's expense. The purpose of the facility is to enable inspection, sampling and flow measurement of wastewater produced by a user. If sampling or metering equipment is also required by the pretreatment coordinator, it shall be provided and installed at the user's expense.

The monitoring facility will normally be required to be located on the user's premises outside of the building. The pretreatment coordinator may, however, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street right-of-way with the approval of the public agency having jurisdiction of that right-of-way and located so that it will not be obstructed by landscaping or parked vehicles.

There shall be ample room in, or near, such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expenses of the user.

(2) Sample methods. All samples collected and analyzed pursuant to this regulation shall be conducted using protocols (including appropriate preservation) specified in the current edition of 40 CFR 136 and appropriate EPA guidance. Multiple grab samples collected during a twenty-four (24) hour period may be composited prior to the analysis as follows: for cyanide, total phenol, and sulfide the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the control authority, as appropriate.

(3) Representative sampling and housekeeping. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measuring facilities shall be properly operated, kept clean, and in good working order at all times. The failure of the user to keep its monitoring facilities in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(4) Proper operation and maintenance. The user shall at all times properly operate and maintain the equipment and facilities associated with spill control, wastewater collection, treatment, sampling and discharge. Proper operation and maintenance includes adequate process control as well as adequate testing and monitoring quality assurance.

(5) Inspection and sampling. The city may inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the city, or its representative, ready access at all reasonable times to all parts of the premises for the purpose of inspection, sampling, records examination and copying or in the performance of any of its duties. The city, approval authority and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. The city will utilize qualified city personnel or a private laboratory to conduct compliance monitoring. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that, upon presentation of suitable identification, personnel from the city, approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibility.

(6) Safety. While performing the necessary work on private properties, the pretreatment coordinator, or duly authorized employees of the city, shall observe all safety rules applicable to the premises established by the company

and the company shall be held harmless for injury or death to the city employees, and the city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the monitoring and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions.

(7) New sources. New sources of discharges to the WWF shall have in full operation all pollution control equipment at start up of the industrial process and be in full compliance of effluent standards within ninety (90) days of start up of the industrial process.

(8) Slug discharge evaluations. Evaluations will be conducted of each significant industrial user according to the state and federal regulations. Where it is determined that a slug discharge control plan is needed, the user shall prepare that plan according to the appropriate regulatory guidance.

(9) Accidental discharges or slug discharges. (a) Protection from accidental or 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 into the WWF of waste regulated by this chapter from liquid or raw material storage areas, from truck and rail car loading and unloading areas, from in-plant transfer or processing and materials handling areas, and from diked areas or holding ponds of any waste regulated by this chapter. Detailed plans showing the facilities and operating procedures shall be submitted to the pretreatment coordinator before the facility is constructed.

The review and approval of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility to provide the protection necessary to meet the requirements of this chapter.

(b) Notification of accidental discharge or slug discharge. Any person causing or suffering from any accidental discharge or slug discharge shall immediately notify the pretreatment coordinator in person, or by the telephone, to enable countermeasures to be taken by the pretreatment coordinator to minimize damage to the WWF, the health and welfare of the public, and the environment. This notification shall be followed, within five (5) days of the date of occurrence, by a detailed written statement describing the cause of the accidental discharge and the measures being taken to prevent future occurrence.

Such notification shall not relieve the user of liability for any expense, loss, or damage to the WWF, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this chapter or state or federal law.

(c) Notice to employees. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure. (1997 Code, § 18-403)

**18-404. Reporting requirements.** Users, whether permitted or non-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 under § 18-405.

(1) Baseline monitoring report. (a) 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 WWF shall submit to the superintendent a report which contains the information listed in subsection (1)(b) below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical industrial users subsequent to the promulgation of an applicable categorical standard, shall submit to the superintendent a report which contains the information listed in subsection (1)(b) below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(b) Users described above shall submit the information set forth below:

(i) Identifying information. The user name and address of the facility, including the name of operators and owners.

(ii) Permit information. A listing of any environmental control permits held by, or for, the facility.

(iii) Description of operations. A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram, which indicates points of discharge to the WWF from the regulated processes.

(iv) Flow measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other



streams, as necessary, to allow use of the combined waste stream formula.

(v) Measurement of pollutants. (A) The categorical pretreatment standards applicable to each regulated process and any new categorically regulated processes for existing sources.

(B) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the superintendent of regulated pollutants in the discharge from each regulated process.

(C) Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported.

(D) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in 40 CFR 136 and amendments, unless otherwise specified in an applicable categorical standard. Where the standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the superintendent or the applicable standards to determine compliance with the standard.

(E) The user shall take a minimum of one (1) representative sample to compile that data necessary to comply with the requirements of this section.

(F) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the user should measure the flows and concentrations necessary to allow use of the combined waste stream formula to evaluate compliance with the pretreatment standards.

(G) Sampling and analysis shall be performed in accordance with 40 CFR 136 or other approved methods.

(H) The superintendent may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.

(I) 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 WWF.

(c) Compliance certification. A statement, reviewed by the user's duly authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional Operation and Maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(d) Compliance schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in § 18-404(2) of this chapter.

(e) Signature and report certification. All baseline monitoring reports must be certified in accordance with § 18-404(14) of this chapter and signed by the duly authorized representative.

(2) Compliance schedule progress reports. The following conditions shall apply to the compliance schedule required by § 18-404(1)(d) of this chapter:

(a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

(b) No increment referred to above shall exceed nine (9) months;

(c) The user shall submit a progress report to the superintendent no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and

(d) In no event shall more than nine (9) months elapse between such progress reports to the superintendent.

(3) Reports on compliance with categorical pretreatment standard deadline. Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the WWF, any user subject to such pretreatment standards and requirements shall submit to the superintendent a report containing the information described in § 18-404(1)(b)(iv) and (v) of this chapter. For all other users subject to

categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with subsection (14) below. All sampling will be done in conformance with subsection (11) below.

(4) Periodic compliance reports. (a) All significant industrial users must, at a frequency determined by the superintendent, submit no less than twice per year (April 10 and October 10) reports indicating the nature, concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the user must submit documentation required by the superintendent or the pretreatment standard necessary to determine the compliance status of the user.

(b) All periodic compliance reports must be signed and certified in accordance with 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 good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(d) If a user subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the superintendent, using the procedures prescribed in subsection (11) below, the results of this monitoring shall be included in the report.

(5) Reports of changed conditions. Each user must notify the superintendent of any significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least sixty (60) days before the change.

(a) The superintendent may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under § 18-402 of this chapter.

(b) The superintendent may issue an individual wastewater discharge permit under § 18-402 of this chapter or modify an existing wastewater discharge permit under § 18-402 of this chapter in response to changed conditions or anticipated changed conditions.

(6) Report of potential problems. (a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, a slug

discharge or slug load, that might cause potential problems for the POTW, the user shall immediately telephone and notify the superintendent of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(b) Within five (5) days following such discharge, the user shall, unless waived by the superintendent, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which might be incurred as a result of damage to the WWF, 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.

(c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in subsection (6)(a) above. Employers shall ensure that all employees, who could cause such a discharge to occur are advised of the emergency notification procedure.

(d) Significant industrial users are required to notify the superintendent immediately of any changes at their facility affecting the potential for a slug discharge.

(7) Reports from unpermitted users. All users not required to obtain an individual wastewater discharge permit shall provide appropriate reports to the superintendent as the superintendent may require to determine the user's status as non-permitted.

(8) Notice of violations/repeat sampling and reporting. Where a violation has occurred, another sample shall be conducted within thirty (30) days of becoming aware of the violation, either a repeat sample or a regularly scheduled sample that falls within the required time frame. If sampling performed by a user indicates a violation, the user must notify the superintendent within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis, and submit the results of the repeat analysis to the superintendent within thirty (30) days after becoming aware of the violation. Resampling by the industrial user is not required if the city performs sampling at the user's facility at least once a month, or if the city performs sampling at the user's facility between the time when the initial sampling was conducted and the time when the user or the city receives the results of this sampling, or if the city has performed the sampling and analysis in lieu of the industrial user.

(9) Notification of the discharge of hazardous waste. (a) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and state hazardous waste authorities, in writing, of any discharge into the POTW of a

substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the waste stream discharged during that calendar month, and an estimation of the mass of constituents in the waste stream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred eighty (180) days after the discharge commences. Any notification under this subsection (9) need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under § 18-404(5) of this chapter. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of §§ 18-404(1), 18-404(3), and 18-404(4) of this chapter.

(b) Dischargers are exempt from the requirements of subsection (9)(a) above during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR §§ 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR §§ 261.30(d) and 261.33(e), requires a one (1) time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.

(c) In the case of any new regulations under section 3001 of RCRA, being Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901, *et seq.*, identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the superintendent, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

(d) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(e) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this chapter, a permit issued thereunder, or any applicable federal or state law.

(10) Analytical requirements. All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR part 136 and amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the superintendent or other parties approved by EPA.

(11) Sample collection. Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

(a) Except as indicated in subsections (11)(b) and (11)(c) below, the user must collect wastewater samples using twenty-four (24) hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the superintendent. Where time-proportional composite sampling or grab sampling is authorized by the city, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR part 136 and appropriate EPA guidance, multiple grab samples collected during a twenty-four (24) hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the city, as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits.

(b) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

(c) For sampling required in support of baseline monitoring and ninety (90) day compliance reports required in subsections (1) and (3) above, a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the superintendent may authorize a lower minimum. For the reports required by subsection (4) above, the industrial user is required to collect the number of grab

samples necessary to assess and assure compliance with applicable pretreatment standards and requirements.

(12) Date of receipt of reports. Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, the date of receipt of the report shall govern.

(13) Recordkeeping. Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this chapter, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with best management practices established under this section. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the city, or where the user has been specifically notified of a longer retention period by the superintendent.

(14) Certification statements; signature and certification. All reports associated with compliance with the pretreatment program shall be signed by the duly authorized representative 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."

Reports required to have signatures and certification statement include, permit applications, periodic reports, compliance schedules, baseline monitoring, reports of accidental or slug discharges, and any other written report that may be used to determine water quality and compliance with local, state, and federal requirements. (1997 Code, § 18-404, modified)

**18-405. Enforcement response plan.** Under the authority of *Tennessee Code Annotated*, §§ 69-3-123, *et seq.*

(1) Complaints; notification of violation; orders.

(a) (i) Whenever the local administrative officer has reason to believe that a violation of any provision of the Greenbrier Wastewater Regulations, pretreatment program, or of orders of the local hearing authority issued under it has occurred, is occurring, or is about to occur, the local administrative officer may cause a written complaint to be served upon the alleged violator or violators.

(ii) The complaint shall specify the provision or provisions of the pretreatment program or order alleged to be violated, or about to be violated, and the facts alleged to constitute a violation, 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 local hearing authority.

(iii) Any such order shall become final and not subject to review unless the alleged violators request by written petition a hearing before the local hearing authority as provided in § 18-405(2), no later than thirty (30) days after the date the order is served; provided, that the local hearing authority may review the final order as provided in *Tennessee Code Annotated*, § 69-3-123(a)(3).

(iv) Notification of violation. Notwithstanding the provisions of subsections (1)(a)(i) through (1)(a)(iii) above, whenever the pretreatment coordinator finds that any user has violated, or is violating, this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment requirements, the city or its agent may serve upon the user a written notice of violation. Within fifteen (15) days of the receipt of this notice, the user shall submit to the pretreatment coordinator an explanation of the violation and a plan for its satisfactory correction and prevention including specific actions. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section limits the authority of the city to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(b) (i) When the local administrative officer finds that a user has violated, or continues to violate, this chapter, wastewater discharge permits, any order issued hereunder, or any other pretreatment standard or requirement, he may issue one (1) of the following orders. These orders are not prerequisite to taking any other action against the user.

(A) Compliance order. An order to the user responsible for the discharge directing that the user come



into compliance within a specified time. If the user does not come into compliance within the specified time, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a federal pretreatment standard or requirement, nor does a compliance order release the user of liability for any violation, including any continuing violation.

(B) Cease and desist order. An order to the user directing it to cease all such violations and directing it to immediately comply with all requirements and take needed remedial or preventive action to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

(C) Consent order. Assurances of voluntary compliance, or other documents establishing an agreement with the user responsible for noncompliance, including specific action to be taken by the user to correct the noncompliance within a time period specified in the order.

(D) Emergency order. (1) Whenever the local administrative officer finds that an emergency exists imperatively requiring immediate action to protect the public health, safety, or welfare, the health of animals, fish or aquatic life, a public water supply, or the facilities of the WWF, the local administrative officer may, without prior notice, issue an order reciting the existence of such an emergency and requiring that any action be taken as the local administrative officer deems necessary to meet the emergency.

(2) If the violator fails to respond or is unable to respond to the order, the local administrative officer may take any emergency action as the local administrative officer deems necessary, or contract with a qualified person or persons to carry out the emergency measures. The local administrative officer may assess the person or persons responsible for the emergency condition for

actual costs incurred by the city in meeting the emergency.

(ii) Appeals from orders of the local administrative officer. (A) Any user affected by any order of the local administrative officer in interpreting or implementing the provisions of this chapter may file with the local administrative officer a written request for reconsideration within thirty (30) days of the order, setting forth in detail the facts supporting the user's request for reconsideration.

(B) If the ruling made by the local administrative officer is unsatisfactory to the person requesting reconsideration, he may, within thirty (30) days, file a written petition with the local hearing authority as provided in subsection (2) below. The local administrative officer's order shall remain in effect during the period of reconsideration.

(c) Except as otherwise expressly provided, any notice, complaint, order, or other instrument issued by, or under, authority of this section may be served on any named person personally, by the local administrative officer or any person designated by the local administrative officer, or service may be made in accordance with Tennessee statutes authorizing service of process in civil action. Proof of service shall be filed in the office of the local administrative officer.

(2) Hearings. (a) Any hearing or rehearing brought before the local hearing authority shall be conducted in accordance with the following:

(i) Upon receipt of a written petition from the alleged violator pursuant to this subsection (2), the local administrative officer shall give the petitioner thirty (30) days' written notice of the time and place of the hearing, but in no case shall the hearing be held more than sixty (60) days from the receipt of the written petition, unless the local administrative officer and the petitioner agree to a postponement;

(ii) The hearing may be conducted by the local hearing authority at a regular or special meeting. A quorum of the local hearing authority must be present at the regular or special meeting to conduct the hearing;

(iii) A verbatim record of the proceedings of the hearings shall be taken and filed with the local hearing authority, together with the findings of fact and conclusions of law made under subsection (2)(a)(vi) below. The recorder transcript shall be made available to the petitioner or any party to a hearing upon payment of a charge set by the local administrative officer to cover the costs of preparation;

(iv) In connection with the hearing, the chair shall issue subpoenas in response to any reasonable request by any party to the hearing requiring the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing. In case of contumacy or refusal to obey a notice of hearing or subpoena issued under this section, the Chancery Court of Robertson County has jurisdiction upon the application of the local hearing authority or the local administrative officer to issue an order requiring the person to appear and testify or produce evidence as the case may require, and any failure to obey an order of the court may be punished by such court as contempt;

(v) Any member of the local hearing authority may administer oaths and examine witnesses;

(vi) On the basis of the evidence produced at the hearing, the local hearing authority shall make findings of fact and conclusions of law and enter decisions and orders that, in its opinion, will best further the purposes of the pretreatment program. It shall provide written notice of its decisions and orders to the alleged violator. The order issued under this subsection (2) shall be issued by the person or persons designated by the chair no later than thirty (30) days following the close of the hearing;

(vii) The decision of the local hearing authority becomes final and binding on all parties unless appealed to the courts as provided in subsection (2)(b) below; and

(viii) Any person to whom an emergency order is directed under § 18-405(1)(b)(i)(D) shall comply immediately, but on petition to the local hearing authority will be afforded a hearing as soon as possible. In no case will the hearing be held later than three (3) days from the receipt of the petition by the local hearing authority.

(b) An appeal may be taken from any final order or other final determination of the local hearing authority by any party who is or may be adversely affected, including the pretreatment agency. Appeal must be made to the chancery court under the common law writ of certiorari set out in *Tennessee Code Annotated*, §§ 27-8-101, *et seq.*, within sixty (60) days from the date the order or determination is made.

(c) Show cause hearing. Notwithstanding the provisions of subsections (2)(a) or (2)(b) above, the pretreatment coordinator may order any user that causes or contributes to violation(s) of this chapter, wastewater discharge permits, or orders issued hereunder, or any other pretreatment standard or requirements, to appear before the local administrative officer and show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the

reasons for the action, and a request that the user show cause why the proposed enforcement action should be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. The notice may be served on any authorized representative of the user. Whether or not the user appears as ordered, immediate enforcement action may be pursued following the hearing date. A show cause hearing shall not be prerequisite for taking any other action against the user. A show cause hearing may be requested by the discharger prior to revocation of a discharge permit or termination of service.

(3) Violations, administrative civil penalty. Under the authority of *Tennessee Code Annotated*, § 69-3-125:

(a) (i) Any person including, but not limited to, industrial users, who does any of the following acts or omissions is subject to a civil penalty of up to ten thousand dollars (\$10,000.00) per day for each day during which the act or omission continues or occurs:

(A) Unauthorized discharge, discharging without a permit;

(B) Violates an effluent standard or limitation;

(C) Violates the terms or conditions of a permit;

(D) Fails to complete a filing requirement;

(E) Fails to allow or perform an entry, inspection, monitoring or reporting requirement;

(F) Fails to pay user or cost recovery charges; or

(G) Violates a final determination or order of the local hearing authority or the local administrative officer.

(ii) Any administrative civil penalty must be assessed in the following manner:

(A) The local administrative officer may issue an assessment against any person or industrial user responsible for the violation;

(B) Any person or industrial user against whom an assessment has been issued may secure a review of the assessment by filing with the local administrative officer a written petition setting forth the grounds and reasons for the violator's objections and asking for a hearing in the matter involved before the local hearing authority and, if a petition for review of the assessment is not filed within thirty (30) days after the date the assessment is served, the violator is deemed to have consented to the assessment and it becomes final;

(C) Whenever any assessment has become final because of a person's failure to appeal the assessment, the local administrative officer may apply to the appropriate

court for a judgment and seek execution of the judgment, and the court, in such proceedings, shall treat a failure to appeal the assessment as a confession of judgment in the amount of the assessment;

(D) In assessing the civil penalty, the local administrative officer may consider the following factors:

(1) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;

(2) Damages to the pretreatment agency, including compensation for the damage or destruction of the facilities of the publicly owned treatment works, and also including any penalties, costs and attorneys' fees incurred by the pretreatment agency as the result of the illegal activity, as well as the expenses involved in enforcing this section and the costs involved in rectifying any damages;

(3) Cause of the discharge or violation;

(4) The severity of the discharge and its effect upon the facilities of the publicly owned treatment works and upon the quality and quantity of the receiving waters;

(5) Effectiveness of action taken by the violator to cease the violation;

(6) The technical and economic reasonableness of reducing or eliminating the discharge; and

(7) The economic benefit gained by the violator.

(E) The local administrative officer may institute proceedings for assessment in the chancery court of the county in which all or part of the pollution or violation occurred in the name of the pretreatment agency.

(iii) The local hearing authority may establish by regulation a schedule of the amount of civil penalty which can be assessed by the local administrative officer for certain specific violations or categories of violations.

(iv) Assessments may be added to the user's next scheduled sewer service charge and the local administrative officer shall have such other collection remedies as may be available for other service charges and fees.

(b) Any civil penalty assessed to a violator pursuant to this section may be in addition to any civil penalty assessed by the

commissioner for violations of *Tennessee Code Annotated*, § 69-3-115(a)(1)(F). However, the sum of penalties imposed by this section and by *Tennessee Code Annotated*, § 69-3-115(a), shall not exceed ten thousand dollars (\$10,000.00) per day for each day during which the act or omission continues or occurs.

(4) Assessment for noncompliance with program permits or orders.

(a) The local administrative officer may assess the liability of any polluter or violator for damages to the city resulting from any person's or industrial user's pollution or violation, failure, or neglect in complying with any permits or orders issued pursuant to the provisions of the pretreatment program or this section.

(b) If an appeal from such assessment is not made to the local hearing authority by the polluter or violator within thirty (30) days of notification of such assessment, the polluter or violator shall be deemed to have consented to the assessment, and it shall become final.

(c) Damages may include any expenses incurred in investigating and enforcing the pretreatment program of this section, in removing, correcting, and terminating any pollution, and also compensation for any actual damages caused by the pollution or violation.

(d) Whenever any assessment has become final because of a person's failure to appeal within the time provided, the local administrative officer may apply to the appropriate court for a judgment, and seek execution on the judgment. The court, in its proceedings, shall treat the failure to appeal the assessment as a confession of judgment in the amount of the assessment.

(5) Judicial proceedings and relief. The local administrative officer may initiate proceedings in the chancery court of the county in which the activities occurred against any person or industrial user who is alleged to have violated, or is about to violate, the pretreatment program, this section, or orders of the local hearing authority or local administrative officer. In the action, the local administrative officer may seek, and the court may grant, injunctive relief and any other relief available in law or equity.

(6) Termination of discharge. In addition to the revocation of permit provisions in § 18-402(2)(g) of this chapter, users are subject to termination of their wastewater discharge for violations of a wastewater discharge permit, or orders issued hereunder, or for any of the following conditions:

(a) Violation of wastewater discharge permit conditions.

(b) Failure to accurately report the wastewater constituents and characteristics of its discharge.

(c) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge.

(d) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling.

(e) Violation of the pretreatment standards in the general discharge prohibitions in § 18-309.

(f) Failure to properly submit an industrial waste survey when requested by the pretreatment coordination superintendent.

The user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause, as provided in subsection (2)(c) above, why the proposed action should not be taken.

(7) Disposition of damage payments and penalties--special fund. All damages and/or penalties assessed and collected under the provisions of this section shall be placed in a special fund by the pretreatment agency and allocated and appropriated for the administration of its wastewater fund or combined water and wastewater fund.

(8) Levels of noncompliance. (a) Insignificant noncompliance. For the purpose of this guide, insignificant noncompliance is considered a relatively minor infrequent violation of pretreatment standards or requirements. These will usually be responded to informally with a phone call or site visit, but may include a Notice of Violation (NOV).

(b) Significant noncompliance. Per 0400-40-14.08(6)(b)(8):

(i) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken for each parameter taken during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limit.

(ii) 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 BOD, TSS fats, oils and grease, and 1.2 for all other pollutants except pH). TRC calculations for pH are not required.

(iii) Any other violation of a pretreatment standard or requirement (daily maximum of longer-term average, instantaneous limit, or narrative standard) that the WWF 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).

(iv) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment, or has resulted in the WWF's exercise of its emergency authority under § 18-405(1)(b)(i)(D), emergency order, to halt or prevent such a discharge.

(v) 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.

(vi) Failure to provide, within forty-five (45) days after their due date, required reports such as baseline monitoring reports, ninety (90) day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules.

(vii) Failure to accurately report noncompliance.

(viii) Any other violation, or group of violations, which may include a violation of best management practices, which the WWF determines will adversely affect the operation or implementation of the local pretreatment program.

(ix) Continuously monitored pH violations that exceed limits for a time period greater than fifty (50) minutes or exceed limits by more than 0.5 s.u. more than eight (8) times in four (4) hours.

Any significant noncompliance violations will be responded to according to the Enforcement Response Plan Guide Table (Appendix A).<sup>1</sup>

(9) Public notice of the significant violations. The superintendent shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the WWF, a list of the users which, at any time during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term "significant noncompliance" shall be applicable to all significant industrial users (or any other industrial user that violates subsections (9)(c), (9)(d) or (9)(h) below) and shall mean:

(a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits;

(b) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equal or exceed the product of the numeric pretreatment standard or requirement including instantaneous limits, multiplied by the

---

<sup>1</sup>The Enforcement Response Plan Guide Table (Appendix A) is of record in the office of the city recorder.



applicable criteria (1.4 for BOD, TSS, fats, 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, as defined by § 18-407 (daily maximum, long-term average, instantaneous limit, or narrative standard), that the superintendent determines has caused, alone or in combination with other discharges, interference or pass-through, including endangering the health of WWF personnel or the general public;

(d) Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the superintendent's exercise of its emergency authority to halt or prevent such a discharge;

(e) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

(f) Failure to accurately report noncompliance;

(g) Any other violation(s), which may include a violation of best management practices, which the superintendent determines will adversely affect the operation or implementation of the local pretreatment program; or

(h) Continuously monitored pH violations that exceed limits for a time period greater than fifty (50) minutes or exceed limits by more than 0.5 s.u. more than eight (8) times in four (4) hours.

(10) Criminal penalties. In addition to civil penalties imposed by the local administrative officer and the State of Tennessee, any person who willfully and negligently violates permit conditions is subject to criminal penalties imposed by the State of Tennessee and the United States. (1997 Code, § 18-405, modified)

**18-406. Enforcement response guide table.** (1) Purpose. The purpose of this chapter is to provide for the consistent and equitable enforcement of the provisions of this chapter.

(2) Enforcement response guide table. The applicable officer shall use the schedule found in Appendix A<sup>1</sup> to impose sanctions or penalties for the violation of this chapter. (1997 Code, § 18-406)

**18-407. Fees and billing.** (1) Purpose. It is the purpose of this chapter to provide for the equitable recovery of costs from users of the city's wastewater treatment system, including costs of operation, maintenance, administration,

---

<sup>1</sup>Appendix A, also known as the Enforcement Response Guide Table, is of record in the office of the city recorder.

bond service costs, capital improvements, depreciation, and equitable cost recovery of EPA administered federal wastewater grants.

(2) Types of charges and fees. The charges and fees, as established in the city's schedule of charges and fees, may include, but are not limited to:

- (a) Inspection fee and tapping fee;
- (b) Fees for applications for discharge;
- (c) Sewer use charges;
- (d) Surcharge fees (see Table C);
- (e) Waste hauler permit;
- (f) Industrial wastewater discharge permit fees;
- (g) Fees for industrial discharge monitoring; and
- (h) Other fees as the city may deem necessary.

(3) Fees for application for discharge. A fee may be charged when a user or prospective user makes application for discharge as required by § 18-402 of this chapter.

(4) Inspection fee and tapping fee. An inspection fee and tapping fee for a building sewer installation shall be paid to the city's sewer department at the time the application is filed.

(5) Sewer user charges.<sup>1</sup> The board of mayor and aldermen shall establish monthly rates and charges for the use of the wastewater system and for the services supplied by the wastewater system.

(6) Industrial wastewater discharge permit fees. A fee may be charged for the issuance of an industrial wastewater discharge fee in accordance with § 18-407 of this chapter.

(7) Fees for industrial discharge monitoring. Fees may be collected from industrial users having pretreatment or other discharge requirements to compensate the city for the necessary compliance monitoring and other administrative duties of the pretreatment program.

(8) Administrative civil penalties. Administrative civil penalties shall be issued according to the following schedule. Violations are categorized in the Enforcement Response Guide Table (Appendix A).<sup>2</sup> The local administrative officer may assess a penalty within the appropriate range. Penalty assessments are to be assessed per violation per day unless otherwise noted.

Category 1	No penalty
Category 2	\$50.00--\$500.00
Category 3	\$500.00--\$1,000.00
Category 4	\$1,000.00--\$5,000.00

---

<sup>1</sup>Such rates are reflected in administrative ordinances or resolutions, which are of record in the office of the city recorder.

<sup>2</sup>The Enforcement Response Guide Table (Appendix A) is of record in the office of the city recorder.



## CHAPTER 5

### CROSS-CONNECTIONS, AUXILIARY INTAKES, ETC.<sup>1</sup>

#### SECTION

- 18-501. Purpose.
- 18-502. Definitions.
- 18-503. Responsibility and authority relating to water system.
- 18-504. System operation.
- 18-505. Customer information.
- 18-506. Backflow prevention and cross-connections.
- 18-507. Circumstances requiring backflow prevention.
- 18-508. Approved backflow prevention assemblies.
- 18-509. Existing protection assemblies.
- 18-510. Safety standards – duplicate equipment in parallel required.
- 18-511. Relief valves.
- 18-512. Thermal expansion control.
- 18-513. Non-potable water supplies.
- 18-514. Inspection, testing and maintenance of customer system and assemblies.
- 18-515. Personal evaluating and testing assemblies.
- 18-516. Correction of violations.
- 18-517. Criteria for the installation of Reduced Pressure Backflow Preventors.
- 18-518. Fees and charges.
- 18-519. Failure to comply with policy.
- 18-520. Conflicting provisions.
- 18-521. Records.
- 18-522. Backflow contamination procedures.
- 18-523. Modification to plan.

**18-501. Purpose.** The purpose of this policy, program and installation criteria (referred to herein collectively as "policy") is to govern cross-connections, auxiliary intakes, by-passes and interconnections, and replace the Greenbrier Water Department's (GWD's) previous policy, program and installation criteria. The requirements contained herein shall apply to all customers of the GWD and all premises served by the GWD, and are hereby made a condition required to be met before water service is provided or continued for any customer. This policy shall be deemed part of every customer's agreement with the GWD

---

<sup>1</sup>Municipal code references

Plumbing code: title 12.

Water and sewer system administration: title 18.

Wastewater treatment: title 18.

regarding the supply and consumption of water. This policy shall be strictly enforced since it is essential for the protection of the public water supply against contamination. (Ord. #20-13, Oct. 2020)

**18-502. Definitions.** The following definitions and terms shall apply in this policy:

(1) "Air gap." A method of backflow prevention consisting of a physical separation between the free-flowing discharge end of a potable water supply line and an open or non-pressurized receiving vessel. An "air gap" must be a distance at least double the diameter of the supply pipe when measured vertically above the overflow rim of the vessel, but in no case less than one inch (1").

(2) "Auxiliary intake." Any piping connection or other device whereby water may be secured from any source other than from the public water system.

(3) "Auxiliary water supply." Any water supply on or available to the premises other than water supplied by the public water system.

(4) "Back pressure." A pressure in downstream piping, higher than the supply pressure, that can cause backflow.

(5) "Back siphonage." A condition causing backflow that can occur from negative or sub-atmospheric pressure in the supply piping.

(6) "Backflow." The reversal of the intended direction of flow of water or mixtures of water and other liquids, gases or other substances from any source into the distribution pipes of a potable water system, including the public water system.

(7) "Backflow prevention assembly." A device to prevent backflow.

(8) "Bypass." Any system of piping or other arrangement whereby water can be diverted around a backflow prevention assembly, meter or any other control device.

(9) "City administrator." The City Administrator of the City of Greenbrier.

(10) "Contamination." The introduction, admission or existence of any foreign substance that affects the quality of a potable water supply or creates a health hazard.

(11) "Cross-connection." Any physical arrangement whereby a public water supply is connected, directly or indirectly, either inside or outside of a building, with any other water supply, sewer, drain, conduit, pool, storage reservoir, plumbing fixture or other device or source (whether public or private) that contains, or may contain, contaminated water, sewage, waste, liquid, gas or solid of unknown or unsafe quality capable of contaminating or affecting the public water supply as a result of backflow.

(12) "Cross-connection control and backflow prevention coordinator." That person with the GWD who is vested with the authority and responsibility for implementing this policy, subject to the direction of the city administrator, or his/her designee. The "cross-connection control and backflow prevention

coordinator" shall be certified by the state to test and evaluate backflow prevention assemblies.

(13) "Customer." Any person or entity that obtains or seeks to obtain water, by purchase or without charge, from the GWD.

(14) "Customer system." Those parts of the water facilities utilized in conveying water that are on the customer's side of:

(a) The water meter (if there is no backflow prevention assembly);

(b) A backflow prevention assembly; or

(c) The customer's property line (if there is a waterline with no meter or backflow prevention assembly).

(15) "GWD system." The water system operated by the GWD, whether located inside or outside the corporate or legal limits thereof, consisting of the facilities for the production, treatment, storage and distribution of water, and including all those facilities up to the point where the customer system begins.

(16) "Health hazard." An actual or potential cross-connection involving any substance that, if introduced into the public water supply, could cause death, injury, illness or spread of disease.

(17) "Industrial fluid." Any fluid or solution that may be chemically, biologically or otherwise contaminated. This shall include, but is not limited to: contaminated water; all types of process water or used water originating from the public water system that may have deteriorated in sanitary quality; chemicals; plating acids and alkalis; circulating cooling water connected to an open cooling tower; water from cooling towers that is chemically or biologically treated or stabilized with any toxic substance; contaminated natural water; oil, gases, glycerin, paraffin, caustic and acid solutions, and other liquids or gases used in industrial processes or for fire protection purposes.

(18) "Inter-connection." Any system of piping or other arrangement whereby a public water supply is connected directly with a sewer, drain, conduit, or other device that does, or may, carry sewage or other liquid or waste capable of causing contamination to the public water supply.

(19) "Potable water." Water that is safe for human consumption as prescribed by the state.

(20) "Public water supply." Water supplied by the GWD, or any other entity that furnishes potable water to the GWD for general use, and is recognized as a public water supply by the state.

(21) "Public water system." A water system furnishing water to the public for general use that is recognized as a public water supply by the state.

(22) "State." The State of Tennessee or Tennessee Department of Environment and Conservation, Division of Water Supply. (Ord. #20-13, Oct. 2020)

**18-503. Responsibility and authority relating to water system.**

(1) Notwithstanding any provisions of a plumbing code adopted by any

unit of local government having jurisdiction, the GWD shall be responsible for taking the steps necessary to protect the GWD system from contamination due to backflow.

(2) The cross-connection control and backflow prevention coordinator is hereby granted authority for implementation and enforcement of this policy, subject to the direction of the city administrator, or his/her designee. Such authority shall extend beyond the service connection to the customer system to whatever extent reasonably necessary to meet the intent or requirements of this policy and includes all types of connections. The cross-connection control and backflow prevention coordinator shall be provided additional GWD staffing, as needed, to implement this policy.

(3) The authority to deny or terminate water service, or take other appropriate actions with respect to any violation of any provision of this policy, shall rest with the city administrator, or his/her designee.

(4) This section shall not be construed to prevent other authorized officers or employees of the GWD from denying or terminating water service, or taking other appropriate action, for failure to pay for water service or for violating any provision of this policy (or any other applicable rules or policies). (Ord. #20-13, Oct. 2020)

**18-504. System operation.** (1) The GWD system and the customer system shall be operated at all times in compliance with *Tennessee Code Annotated*, §§ 68-221-104 and 68-221-711, Tennessee Comp. R. and Regs R. 0400-45-01.07(6) & -.20(1)(h), all other applicable laws, rules and regulations, as amended from time to time, and this policy.

(2) Before service is provided to a customer, the customer shall provide information to the GWD about the existence of any well or other water supply, and such other information requested by the GWD (see also § 18-505 herein). The GWD shall make a determination and inform the customer of the location and layout of the backflow prevention assembly or assemblies the customer needs to have installed and/or other actions the customer needs to take. Prior to executing any work order for a new customer requiring a three-fourths inch (3/4") meter or larger, or for any change in service to an existing customer with a three-fourths inch (3/4") meter or larger, notification shall be given to the GWD backflow prevention coordinator if it is determined that a backflow prevention assembly is required for a new meter or change in service for an existing meter. Water service shall not be established or continued until all necessary backflow assemblies are installed and other necessary actions are taken. (Ord. #20-13, Oct. 2020, modified)

**18-505. Customer information.** (1) The GWD shall inform its customers of the health hazards associated with potential cross-connections and backflows and acquaint them with this policy. Information will be provided to customers about cross-connection control and backflow prevention when new

service is requested through the GWD's website, or by pamphlets, reminders or articles sent to customers at least once per year.

(2) Any customer who has, or intends to have, on its premises a well or other auxiliary water supply, or who stores, or intends to store, water in an uncovered or unsanitary storage reservoir from which the water is circulated through a piping system, shall submit to the GWD a statement of the existence of these conditions. Such statement also shall contain an agreement to comply with this policy and that no cross-connection, auxiliary intake, bypass or inter-connection will be permitted or will continue on the premises without a backflow prevention assembly and/or air cap, as determined by the GWD and in compliance with this policy in place, and the operation and maintenance of same has been placed under direct supervision of the GWD. Upon request, the customer or owner, lessee or occupant of any property so served shall furnish to the GWD all pertinent information regarding the customer system on, or relating to, such property. Refusal to provide such access or information shall be deemed evidence of the presence of unapproved cross-connections or other conditions in violation of this policy. The GWD will survey the property to ensure that adequate backflow protection is in place.

(3) The GWD will survey its customers, both residential and nonresidential, for possible cross-connections. If a survey indicates that a cross-connection may exist, the customer's premises will be inspected in accordance with this policy. The GWD will survey approximately one percent (1%) of connections annually for the potential existence of a cross-connection. These inspections are in addition to annual testing of known devices and will be a physical inspection of the property being surveyed. Documentation of the surveys will be generated and maintained for review by the division of water supply during a sanitary survey event. (Ord. #20-13, Oct. 2020)

**18-506. Backflow prevention and cross-connections.** (1) No person shall cause a cross-connection, auxiliary intake, bypass or inter-connection to be made, or allowed to exist, for any purpose, unless there is a backflow prevention assembly, and the operation and maintenance of such are, at all times, in compliance with this policy and subject to the direction of the GWD. No person shall install or allow any unprotected connection to a water service line on the GWD's side of any meter or backflow prevention assembly.

(2) It shall be a violation of this policy if a backflow prevention assembly required by this policy is not properly installed, tested and maintained, or if it is found that a required or necessary backflow prevention assembly has been removed, bypassed, altered or not kept in proper working condition, or if an unprotected cross-connection exists on the premises.

(3) If, in the judgment of the GWD, a backflow prevention assembly is required for the safety of the public water supply, the GWD shall give notice, in writing, to the customer to install one (1) or more backflow prevention assemblies at specific location(s) and/or take other actions; and the customer



shall comply therewith in order to be entitled to obtain or continue water service.

(4) For new commercial or industrial construction, or renovation or expansion of a commercial or industrial property, the GWD shall inspect the site, and review and approve/disapprove plans in order to determine the location and layout of any backflow prevention assembly required.

(5) No installation of, or alteration or change to, any backflow prevention assembly connected to the public water supply shall occur without approval from the GWD.

(6) Where there are premises with a well or other auxiliary water supply that do not have a backflow prevention assembly that complies with this policy, the GWD shall verify, by on-site inspection, that there is adequate separation of the auxiliary water supply from the public water supply. The GWD will develop and maintain an up-to-date list of all know wells within the water system. Additionally, wells where no backflow prevention is provided will be inspected at least every five (5) years to ensure separation is maintained. Documentation of these inspections will be generated and maintained for review by the division of water supply during a sanitary survey event. The GWD will inspect twenty-percent (20%) of the wells annually to get the wells on a five (5) year rotation. (Ord. #20-13, Oct. 2020)

**18-507. Circumstances requiring backflow prevention.** A backflow prevention assembly and/or air gap, as determined by the GWD, in compliance with this policy must be in place on each service line to a customer's premises within distances set out in the installation criteria herein and on the customer's side of the meter, and in all cases before the first branch line leading off the service line, when any of the following conditions exist:

(1) Premises where industrial fluids or any other non-potable substances are handled in such a manner as to create an actual or potential hazard to the public water system;

(2) Premises having internal cross-connections that cannot be corrected and controlled permanently, or intricate plumbing and piping arrangements, or where entry to all portions of the premises is not readily accessible or safe for the GWD personnel for inspection purposes, making it impracticable or impossible to ascertain whether a cross-connection exists;

(3) Premises having an auxiliary water supply, including, but not limited to, a well, cistern, spring, pond, river or creek, that is not disconnected from the public water supply in a manner acceptable to the GWD;

(4) The owner or occupant of the premises cannot, or is not willing to, demonstrate that the water use and protective features of the plumbing are such as to pose no threat to the safety or portability of the water;

(5) The nature and mode of operation within the premises is such that frequent alterations are made to the plumbing;

(6) The nature of the premises is such that the use of the structure may change to a use wherein backflow prevention is required;

(7) There is a likelihood that backflow protective measures may be subverted, altered or disconnected;

(8) Premises having service and fire flow connections, commercial or educational buildings, construction sites, industrial, institutional or medical facilities, lawn irrigation systems, public swimming pools, fire hydrant connections used by any fire department, photographic laboratories, standing ponds or other bodies of water, or auxiliary water supplies;

(9) Premises where there is any substance, toxic or otherwise, that would be objectionable, even though not a health hazard, if introduced into the public water system;

(10) Premises where there is any material dangerous to health that is handled in such a fashion as may create an actual or potential hazard to the public water system. Premises where such conditions may exist include, but are not limited to: sewage treatment plants, sewage pumping stations, chemical manufacturing plants, hospitals, mortuaries and plating plants;

(11) Premises where, because of security requirements or other restrictions, it is impossible or impractical to make a complete cross-connection survey;

(12) Premises having a residential fire sprinkler system not approved by the GWD; or

(13) Premises, including residential, otherwise determined by the GWD to need backflow prevention. (Ord. #20-13, Oct. 2020)

**18-508. Approved backflow prevention assemblies.** Except as provided in § 18-509 hereof, all backflow prevention assemblies shall be fully approved by the Foundation for Cross-Connection Control and Hydraulic Research, listed as acceptable by the state as to manufacturer, model, size and application, and satisfactory to the GWD.

The location and layout of all backflow prevention assemblies shall be approved by the GWD prior to installation, and the installation shall comply with installation criteria set forth herein. Purchase and installation of the assembly shall be at the expense of customer. (Ord. #20-13, Oct. 2020)

**18-509. Existing protection assemblies.** (1) All backflow prevention assemblies that were installed and previously acceptable to the state as of the effective date of this policy, and that, in the sole discretion of the GWD, adequately protect the public water system from backflow may be retained in service, except as otherwise provided in this section.

(2) Notwithstanding the foregoing, any backflow prevention assembly installed in a vertical run of pipe shall be replaced, or re-installed, in a horizontal run of pipe in a manner and location satisfactory to the GWD. In addition, wherever the location of an assembly, or the assembly itself, has been

altered, or access to the assembly has been altered or restricted such that testing or maintenance is affected, or when the GWD finds that the assembly constitutes a health hazard, the assembly shall be replaced by an approved backflow preventor meeting the requirements of this policy for new installations. (Ord. #20-13, Oct. 2020)

**18-510. Safety standards -- duplicate equipment in parallel required.** Where the use of water is critical to the continuation of normal operations or protection of life, property or equipment, duplicate Reduced Pressure Backflow Preventors (RPBPs) shall be installed by the customer to avoid the necessity of discontinuing water service to test or repair an assembly. (Ord. #20-13, Oct. 2020)

**18-511. Relief valves.** (1) All storage water heaters operating above atmospheric pressure shall be provided with a self-closing pressure relief valve and temperature relief valve, or combination thereof, except for nonstorage instantaneous heaters. Such valves shall be installed in the shell of the water heater tank or may be installed in the hot water outlet; provided the thermo-bulb extends into the shell of the tank. Temperature relief valves shall be so located in the tank as to be actuated by the water in the top one-eighth (1/8) of the tank.

(2) For installations with separate storage tanks, the valve shall be installed on the tank and there shall not be any type of valve installed between the water heater and the storage tank. There shall not be a check valve or shut off valve between a relief valve and the heater or tank it serves. The relief valve shall not be used as a means of controlling thermal expansion. (Ord. #20-13, Oct. 2020)

**18-512. Thermal expansion control.** A device for the control of thermal expansion shall be installed on the customer system where the thermal expansion of the water in the system may cause the water pressure to exceed the pressure setting of the pressure relief valve of the water heater. The thermal expansion device shall control the water pressure to less than the pressure setting of all pressure relief valves and must be installed/maintained properly by the customer. (Ord. #20-13, Oct. 2020)

**18-513. Non-potable water supplies.** (1) Any water outlet connected to auxiliary water sources, industrial fluid systems, or other piping containing non-potable liquids or gases that could be used for potable or domestic purposes shall be labeled in a conspicuous manner as follows:

#### WATER UNSAFE FOR DRINKING

The sign shall have black letters at least one inch (1") high on a red background.

(2) Color coding of piping in accordance with OSHA/TOSHA requirements may be required in locations where, in the judgment of the GWD, such color coding is necessary to identify and protect the potable water supply. (Ord. #20-13, Oct. 2020)

**18-514. Inspection, testing and maintenance of customer system and assemblies.** (1) All backflow prevention assemblies shall be inspected and tested at least every twelve (12) months. In those instances where the GWD deems it appropriate, inspections and tests may be required more frequently. The GWD promptly shall be provided records and results of all tests.

(2) All tests and repairs shall be at the expense of the customer. Assemblies found to be defective or otherwise not in compliance with this policy shall be timely repaired, overhauled or replaced, and the repaired/overhauled or replacement assembly shall be tested and proved to be in compliance with this policy at the expense of the customer. Copies of all records of inspections, tests, repairs and overhaul promptly shall be supplied to the GWD for its retention.

(3) The customer shall maintain a backflow prevention assembly in proper working order. The removal, bypassing or altering of a protective assembly, or the installation thereof, that reduces any assembly's effectiveness is not permitted.

(4) The GWD shall have the right to enter any property served by the public water system for the purpose of inspecting for, or taking other necessary actions with respect to, cross-connections, auxiliary intakes, bypasses or interconnections, or for its own inspection and testing of backflow prevention assemblies, whenever it deems necessary. Except in emergencies, water service shall not be disrupted by the GWD to take any such actions without notice to the occupant of the premises.

(a) During any inspection, a field sheet will be completed documenting the observations and findings of the inspection.

(b) If after review of the information gathered during the inspection the GWD determines in its sole discretion that further action is necessary, a written report shall be prepared summarizing the inspection findings. Such report shall be sent to the customer(s) responsible for the cross-connection, auxiliary intake, bypass or interconnection, and/or backflow prevention assembly. The reports shall describe the findings of the inspection and the corrective measures that are required. Such corrective measures shall be completed in accordance with the requirements of this policy.

(c) The GWD will perform reinspections as needed to assist the customer and to assure that the corrective measures have been properly implemented.

(d) The GWD will develop and maintain an up-to-date list of all know wells within the water system. Additionally, wells where no

backflow prevention is provided will be inspected at least every five (5) years to ensure separation is maintained. Documentation of these inspections will be generated and maintained for review by the division of water supply during a sanitary survey event. The GWD will inspect twenty percent (20%) of the wells annually to get the wells on a five (5) year rotation. (Ord. #20-13, Oct. 2020)

**18-515. Personalevaluating and testing assemblies.** (1) Any person testing backflow prevention assemblies shall have a current and valid certification from the state for the testing and evaluation of such assemblies and all other required licenses and certifications, copies of which shall be submitted to the GWD, and shall be subject to the GWD approval. A list of approved persons will be maintained by the GWD.

(2) For any services, tests, inspections, certifications, work or approvals requiring a state licensed and/or certified technician or representative not employed by the GWD, the third-party provider shall submit to the GWD:

(a) Proof of the state certification and/or license authorizing the individual to perform the services, tests, inspections, certifications, work or approvals rendered;

(b) A current address, telephone number and other means by which such third-party provider may be contacted; and

(c) Original reports, records and other documentation showing compliance of the applicable assembly with this policy. The GWD shall have the right to review and approve/disapprove any and all services, tests, inspections, certifications, work or approvals. The GWD shall further be permitted to inspect, evaluate or otherwise verify the services, tests, inspections, certifications, work and approvals performed by the third-party providers on behalf of the customer. (Ord. #20-13, Oct. 2020)

**18-516. Correction of violations.** (1) Any customer having cross-connections, auxiliary intakes, bypasses or interconnection(s) in violation of this policy shall commence and complete the work required to bring the situation into compliance with this policy within the time designated by the GWD, but in no case shall the time for such correction exceed forty-five (45) days.

(2) Where cross-connections, auxiliary intakes, bypasses or interconnections are found to present an imminent threat of contaminating the public water system, the GWD may require that immediate corrective action be taken to eliminate the threat. In such event, expeditious steps shall be taken to disconnect the public water system from the customer system by air gap or other physical separation satisfactory to the GWD, unless the threat is otherwise removed immediately to the satisfaction of the GWD. (Ord. #20-13, Oct. 2020)

**18-517. Criteria for the installation of RPBBs.** (1) Introduction. The GWD's criteria for the installation of approved backflows are an integral part of this policy. The purpose of these criteria is to provide a guide for the proper installation of assemblies intended to protect the public water supply from backflow. Proper installation of assemblies is vital to help ensure that the assembly functions as intended and is easily accessed for maintenance, inspection and testing. In matters where these criteria do not address specific issues and the manufacturer's recommendations do not conflict with the GWD's requirements, the manufacturer's recommendations may be used.

(2) General installation notes. (a) All assemblies shall be installed in accordance with these installation criteria.

(b) No vertical installation of assemblies is permitted.

(c) No below ground installation of assemblies will be permitted.

(d) In no case shall backflow prevention assemblies be installed in locations subject to flooding or where the relief valve opening would be less than eighteen inches (18") above the higher of potential high-water elevations or the enclosure foundation. Care must be taken when selecting the installed height of the backflow prevention assembly as the potential high-water elevation may be higher than the enclosure foundation elevation.

(e) An air gap satisfactory to the GWD shall be provided between the relief valve opening and any drainage system. The air gap assembly shall not be altered without the specific approval of the GWD. Gravity shall be the only means of accomplishing drainage away from the assembly.

(f) Assemblies shall not be located where discharge from the relief valve will create undesirable conditions.

(g) All assemblies shall be installed complete with resilient seat test cocks, test adapters and protective caps, all manufactured from brass.

(h) Piping and fitting materials shall be copper, brass or ductile iron, except as noted below for winterized irrigation assemblies.

(i) All installed assemblies shall be easily accessible for testing and repair, as well as meet all applicable confined space and safety requirements of OSHA/TOSHA.

(j) Assemblies shall be protected from vandalism, mechanical abuse, and any corrosive, sticky, greasy, abrasive or other damaging substances.

(k) All assemblies shall be adequately supported to prevent sagging. Flushing ports on wye-strainers shall be plugged.

(l) No valves or other devices that would enable easy connection to the upstream side of the assembly shall be permitted on the flushing port.

(m) In these criteria, three-fourths inches (3/4") through two inches (2") diameter assemblies are referred to as "small assemblies" and two and one-half inches (2-1/2") through ten inches (10") diameter assemblies are referred to as "large assemblies."

(3) Installation notes for small assemblies. (a) Bodies for small assemblies shall be constructed of bronze.

(b) Shutoff valves for small assemblies shall be bronze, full port, quarter turn, resilient seat ball valves.

(c) Wye-strainers are to be installed on all small assemblies. Strainers shall be constructed with bronze bodies. Brass nipples shall be used between the strainer and the assembly.

(4) Installation notes for large assemblies. (a) Shutoff valves for large assemblies shall be cast or ductile iron body, resilient seat, wedge type OS&Y valves.

(b) A minimum of two (2) sets of all-thread rods and eye-bolts of three-fourths inches (3/4") diameter shall be used to restrain fittings on vertical runs of pipe on the inlet and outlet of all large assemblies.

(c) Bodies for large assemblies shall be constructed of cast or ductile iron and epoxy coated. The only exception to this will be for those made of stainless steel.

(5) Enclosures. (a) Some installations shall be provided with prefabricated, heated enclosures that will prevent the assembly from freezing.

(b) Enclosures shall be manufactured by Safe-T-Cover, G&C Enclosures or an equal previously submitted to, and approved by, the GWD.

(c) The enclosure shall be manufactured to house specific assemblies and shutoff valves such that adequate internal clearance is maintained and the drain panel sizing is adequate to provide positive drainage in the event the relief valve opens.

(d) The enclosure shall be supplied with rigid insulation that provides a minimum "R" value of ten (10). Insulation other than the rigid type, supplied by the manufacturer, shall not be allowed. Insulation, other than the rigid type, supplied by the manufacturer, shall not be allowed on the original installation or at any time in the future.

(e) Enclosures provided with access panels shall be manufactured such that the panels are completely removable, and shall be provided with built-in locks, keyed alike, with keys furnished to the GWD.

(f) Drain panel(s) shall have a stainless-steel hinge and stainless-steel spring, or an approved gravity style positive means of closure, to prevent activation by wind. The drain panel shall be an integral part of the enclosure and be fabricated by the manufacturer of the same materials as the enclosure.

(g) All mounting hardware and threaded fasteners shall be 300 series stainless steel or T6 aluminum. All masonry fasteners shall be metal wedge anchors.

(6) Heating equipment. (a) Heating equipment shall be furnished and sized by the manufacturer of the enclosure to maintain a minimum interior temperature of plus forty degrees Fahrenheit (+40°F) when outside temperature is at, or above, minus thirty degrees Fahrenheit (-30°F).

(b) An automatic, adjustable thermostat integrally constructed with the heating element with a setting range of plus forty degrees Fahrenheit (+40°F) to plus one hundred degrees Fahrenheit (+100°F) shall control the heating element.

(c) Heating equipment shall be installed per the manufacturer's recommendations with factory supplied hardware.

(d) Heating equipment shall be designed such that repeated submersion will not damage it or impede its operation.

(e) The heater, wiring, electrical fittings and associated connectors shall be manufactured and installed such that wet conditions will not constitute a hazardous environment or impede the operation or effectiveness of the heating equipment.

(f) The installation contractor shall be responsible for installing properly sized electrical circuits capable of providing power to the heating equipment per all applicable safety standards and codes.

(7) Enclosure foundation. (a) The enclosure shall be assembled and mounted to a concrete foundation in such a way that it will remain locked and secured to the foundation even if outside enclosure screws are removed.

(b) Enclosures for small assemblies shall be mounted on a concrete foundation of such thickness that the top elevation of the foundation is a minimum of four inches (4") above finished grade. The foundation length and width dimensions shall be sixteen inches (16") longer and wider than the outside dimensions of the enclosure.

(c) Enclosures for large assemblies shall be mounted on a concrete foundation of such thickness that the top elevation of the foundation is a minimum of six inches (6") above finished grade. The foundation length and width dimensions shall be twenty-four inches (24") longer and wider than the outside dimensions of the enclosure.

(d) Concrete mix strength shall be a minimum of 3,000 psi after fourteen (14) days of curing. Concrete reinforcing material shall be adequate to prevent cracking of the foundation due to supported loads or differential settlement.

(e) Concrete for enclosure foundations shall be placed on a minimum of six inches (6") of three-fourths inches (3/4") crushed stone base.



(f) Where multiple assemblies are installed parallel and in close proximity to one another, a minimum lateral separation of thirty-six inches (36") shall be maintained between the edges of enclosure foundations.

(8) Irrigation system notes. (a) All assemblies installed on irrigation systems must be located downstream of, and within two feet (2') of, the water meter box. The device must be located upstream of any branches in piping on the customer side of the meter.

(b) Irrigation system installations may be completed without a heater or enclosure if they are restricted to seasonal use and are winterized to prevent freezing. The installation must be complete with unions to allow easy removal of the assembly. The GWD recommends that winterized assemblies be completely removed in cold weather months. All non-winterized irrigation installations must follow criteria for standard assemblies mentioned above.

(c) Irrigation installations may be completed with schedule 40 PVC pipe and fittings if the device is to be winterized during cold weather months.

(d) Testing is required for previously winterized irrigation assemblies prior to restoring service to the irrigation system for the next season. (Ord. #20-13, Oct. 2020, modified)

**18-518. Fees and charges.** Fees and charges related to the implementation and continuance of this policy may be established from time to time by the board of mayor and aldermen. (Ord. #20-13, Oct. 2020, modified)

**18-519. Failure to comply with policy.** (1) If this policy is violated, or any customer or occupant of the premises fails to comply with any provision herein, the GWD may take any or all of the following actions:

(a) Deny water service;

(b) Terminate water service;

(c) Require compliance with, and/or correction or elimination of any condition that exists in violation of, this policy;

(d) Eliminate or correct any condition that is in violation of this policy;

(e) Impose and recover such fees and charges as are authorized from time to time by the board of mayor and aldermen;

(f) Take whatever other action is appropriate under, or authorized by, this policy or applicable law to address the failure to comply; and/or

(g) Charge, and recover from, the violating customer or person all costs and damages, including attorneys' fees, incurred by the GWD in taking any of the above actions or any other action expressly permitted, or otherwise deemed appropriate, by the GWD under this policy.

(2) If water service has been denied or terminated because of any violation of, or failure to comply with, this policy, service will not be provided or restored until all such conditions are eliminated, corrected or otherwise addressed to the satisfaction of the GWD.

(3) For existing installations, the GWD may cause water service to be denied or terminated until such time as the customer complies with all applicable requirements of state law and this policy.

(4) When an unprotected cross-connection, or other violation, of this policy exists, the GWD may deny or discontinue service by requiring or causing an air gap or other physical break satisfactory to the GWD until the customer has eliminated or corrected all violations in accordance with the policy.

(5) Failure to correct conditions threatening the safety of the public water system that are prohibited by this policy, *Tennessee Code Annotated*, § 68-221-711, or other applicable law, as amended from time to time, within the time set by the GWD or this policy shall constitute a violation of this policy and cause for, among other things, denial or termination of water service. In such case, the GWD shall give the customer written notification that the water service is being denied or terminated, and shall require or cause a physical separation, by air gap or other means satisfactory to the GWD, of the public water system from the customer system in such manner that the two (2) systems cannot be connected again, except by the GWD.

(6) In the event that a backflow prevention assembly fails the initial or annual test, or there are deficiencies in the installation either from failure to conform to the installation criteria specified in this policy, or for any other reason, the GWD may issue a written notice of failure or deficiency. If a failure or deficiency is not corrected within the time required by the GWD, the GWD may take action it deems appropriate.

(7) The GWD may waive any fees, charges or other remedy it has in its sole discretion. (Ord. #20-13, Oct. 2020, modified)

**18-520. Conflicting provisions.** If any provision of this policy is found to conflict with any provision of any other policy, the provision of this policy shall control. Should any part(s) of this policy be declared invalid for any reason, no other part(s) of this policy shall be affected thereby. (Ord. #20-13, Oct. 2020)

**18-521. Records.** Records required by this policy will be maintained for a minimum of five (5) years. Such records include, but are not limited to, the following:

- (1) Master list of all customers with backflow prevention assemblies, including the location and a description of the assembly used;
- (2) Correspondence regarding suspected cross-connections;
- (3) Test records and reports for backflow prevention assemblies;
- (4) Customer survey information, site inspection records and site inspection reports;

- (5) Backflow incident documentation; and
- (6) Public education pamphlets, reminders, articles, and other information. (Ord. #20-13, Oct. 2020)

**18-522. Backflow contamination procedures.** If contamination is suspected from a cross-connection or caused by backflow, the GWD will take the following actions:

- (1) Notify customers with potentially contaminated lines not to consume or use the water;
- (2) Isolate all potentially contaminated lines in the GWD system;
- (3) Separate the cross-connection from the GWD system;
- (4) Take steps to remove potential contamination from the GWD lines;
- (5) Test lines to ensure all state rules and regulations for safe drinking water have been met;
- (6) Return service to affected customers;
- (7) Document the incident, including suspected cause, the GWD's response, and corrective actions taken; and
- (8) Notify and report to the state as required by applicable state rules and regulations. (Ord. #20-13, Oct. 2020)

**18-523. Modification to plan.** This policy may be modified from time to time to meet the needs the GWD and to comply with applicable state rules and regulations. This policy shall be reviewed by the GWD every five (5) years to assess whether it continues to meet state requirements and whether it effectively addresses cross-connections and backflow prevention in the GWD system. The city administrator, or his/her designee, is authorized to modify this plan, as needed, without prior approval of the board of mayor and aldermen, and shall report any substantive modification to this plan to the board for their information in a timely manner. The city administrator shall also notify the state, as required by applicable state rules and regulations, of any substantive modification to this plan. (Ord. #20-13, Oct. 2020, modified)

## CHAPTER 6

### SEWER CONSTRUCTION ORDINANCE

#### SECTION

18-601. Purpose - sewer construction credit ordinance.

18-602. General standards.

18-603. Miscellaneous.

**18-601. Purpose - sewer construction credit ordinance.** (1) The purpose of this chapter is to provide the basis for achieving the adopted city goals and objectives defined below:

(a) To improve and increase the benefit of city-supplied sewer service to the citizens of Greenbrier;

(b) To foster the development of the best possible land uses within the boundaries of the City of Greenbrier;

(c) To minimize future operational and maintenance costs to the people of the City of Greenbrier;

(d) To help preserve the environmental quality, social well-being, and economic stability of the City of Greenbrier; and

(e) To provide corrective works which are consistent with the overall goals, policies, standards, and criteria of the City of Greenbrier.

(2) The provisions of this chapter further regulate, guide, and control: The providing of tap fee credits in response to privately funded public sewer extensions benefitting the people of the City of Greenbrier. (1997 Code, § 18-701)

**18-602. General standards.** (1) Applicability and exceptions. This chapter shall be applicable within the City of Greenbrier's jurisdictional area and shall apply to sewer extensions which, in the determination of the Greenbrier Director of Public Works, benefit the public-at-large of the City of Greenbrier. In order to apply for such determination, said sewer extension must provide service to more than one (1) customer and must provide new customers to the system outside of the development being constructed which would require the payment of tap fees.

For clarity, in order to be eligible for tap fee credits, a sewerline extension must be required which passes land presently not served by city sewer prior to crossing in front of, or into, the subdivision being developed. The land in front of which the extension passes may not be under the same ownership either directly or indirectly as the land being developed.

(2) Determination of extensions eligible for credits. In order to be eligible for tap fee credits, the following criteria must be met by sewerline extension:

(a) It must be a public extension and, as such, must meet all of the construction standards of the City of Greenbrier and must be accepted as such by the director of public works;

(b) It must be a gravity sanitary sewerline with sufficient capacity to serve more lots than are proposed within the specific development being served at the time of installation (force mains or pressurized lines do not qualify for a credit);

(c) It must serve more than one (1) property;

(d) It must create customers for the system which would be required to pay tap fees and who are not homeowners within the subdivision being developed;

(e) It must be dedicated to the city; and

(f) It must be located on a permanent public right-of-way or easement.

(3) Determination of credits. The determination of tap fee credits for a development of subdivision shall be the responsibility of the Greenbrier Planning Commission. In order to qualify for credits, the following information must be submitted to the planning commission:

(a) A scale drawing showing the sewerline extension and showing the appropriate property lines along the run. This drawing must be a plan/profile which not only clearly shows the length and alignment, but also clearly demonstrates that the sewer will flow by gravity;

(b) Calculations showing the capacity of the proposed gravity sewer;

(c) If the proposed gravity sewer drains to an existing or proposed lift station, then a letter from the department of public works stating that they are in agreement to that installation and calculations showing that the existing lift station, improved lift station, or proposed lift station has a capacity or excess capacity equal to, or exceeding, the capacity of the proposed gravity sewerline;

(d) A master plan or preliminary plat showing the entire development with a lot layout meeting all requirements of the subdivision regulations and zoning ordinance which shows a maximum number of lots proposed for the development (this will be the maximum number of tap fee credits which can be claimed in the life of the project. Lots of properties not shown on the master plan or preliminary plat will not be eligible for tap fee credits); and

(e) Proof of control, either through ownership or option of all properties shown in the master plan or preliminary plat (lots on properties for which proof of control is not provided will not be eligible for tap fee credits).

(4) Calculation of tap fee credits. Based upon the information provided above, the planning commission shall determine a length of sewerline extension that is eligible for credits based upon the rules set forth herein and shall

determine a maximum number of lots within a development for which these credits may be applied. Given this information, a percentage reduction of the tap fee will be applied to all lots within the development up to the maximum number of lots determined by the planning commission according to the following table:

<u>Linear Feet of Sewerline Extension Eligible to be Applied to Tap Fee Credits</u>	<u>Percentage Reduction of Sewer Tap Fees for All Lots in Development Up to the Maximum Number Determined by the Planning Commission</u>
0-100	0
100.1-200	10
200.1-300	20
300.1-400	30
400.1-500	40
500.1-600	50
600.1-700	60
700.1-800	70
800.1-900	80
900.1-1000	90
1000.1 +	100

(5) Limitation of tap fee credits. Tap fee credits will be available to the developer under the following terms and conditions:

(a) This credit is a credit against tap fees only. At no point will the City of Greenbrier ever be responsible for payment of any kind in cash under the provisions of this chapter;

(b) The credits will be determined based upon a specific subdivision or development as shown on the master plan or preliminary plat described in subsection (3) above and will be made available for that development only. Developers or land owners may not apply tap fee credits from one (1) development onto another development;

(c) In the event that the number of lots developed is less than the number of tap fee credits approved, no additional credits or monies will be available to that developer; and

(d) Tap fee credits under this chapter may only be applied to tap fees and may not be applied to any other fees or payments associated with the development. (1997 Code, § 18-702)

**18-603. Miscellaneous.** (1) Validity. If any term or provision of this chapter shall be held to be unconstitutional or otherwise unenforceable, the remainder thereof shall not be affected thereby and shall remain in full force and effect.

(2) Conflict. All ordinances heretofore adopted on the subject of this chapter which are in conflict herewith are hereby repealed and the applicable provisions of the chapter are substituted in their place.

(3) Variances. The mayor and board of aldermen shall have the power, through a two-thirds (2/3) majority vote, to authorize variances from the provisions or requirements of this chapter as will not be contrary to the public interest. No variance from the strict application of any provision shall be granted unless it is found that:

(a) Literal interpretation of this chapter would in any way pose a threat to public health or safety.

(b) Granting of the variance will be in the overall best interest of the citizens of the City of Greenbrier and will not be injurious to the immediate neighborhood, or otherwise detrimental to the public welfare. (1997 Code, § 18-703)

## CHAPTER 7

### STORMWATER ORDINANCE

#### SECTION

- 18-701. General provisions.
- 18-702. Definitions.
- 18-703. Waivers.
- 18-704. Land disturbance permit.
- 18-705. Stormwater system design: construction and permanent stormwater management; performance standards.
- 18-706. Water quality riparian buffer zone requirements.
- 18-707. Permanent stormwater management: operation, maintenance, and inspection.
- 18-708. Existing locations and ongoing developments.
- 18-709. Illicit discharges.
- 18-710. Enforcement.
- 18-711. Penalties.
- 18-712. Appeals.
- 18-713. Maintenance.

**18-701. General provisions.** (1) Purpose. It is the purpose of this chapter to:

(a) Protect, maintain, and enhance the environment of the city and the public health, safety and the general welfare of the citizens of the city, by controlling discharges of pollutants to the city's stormwater system.

(b) Enable the city to comply with the National Pollution Discharge Elimination System permit (NPDES) general permit for discharges from small Municipal Separate Storm Sewer Systems (MS4) and applicable regulations, 40 CFR 122.26 for stormwater discharges;

(c) Allow the city to exercise the powers granted in *Tennessee Code Annotated*, § 68-221-1105, which provides that, among other powers cities have with respect to stormwater facilities, is the power by ordinance or resolution to:

(i) Exercise general regulation over the planning, location, construction, and operation and maintenance of stormwater facilities in the city, whether or not owned and operated by the city;

(ii) Adopt any rules and regulations deemed necessary to accomplish the purposes of this statute, including the adoption of a system of fees for services and permits;



(iii) Establish standards to regulate the quantity of stormwater discharged and to regulate stormwater contaminants as may be necessary to protect water quality;

(iv) Review and approve plans and plats for stormwater management in proposed subdivisions or commercial developments;

(v) Issue permits for stormwater discharges, or for the construction, alteration, extension, or repair of stormwater facilities;

(vi) Suspend or revoke permits when it is determined that the permittee has violated any applicable ordinance, resolution, or condition of the permit;

(vii) Regulate and prohibit discharges into stormwater facilities of sanitary, industrial, or commercial sewage or waters that have otherwise been contaminated; and

(viii) Expend funds to remediate or mitigate the detrimental effects of contaminated land or other sources of stormwater contamination, whether public or private.

(2) Administrator. The mayor, or designee, shall administer the provisions of this chapter.

(3) Jurisdiction. This ordinance shall govern all properties within the corporate limits for the City of Greenbrier, Tennessee.

(4) Right of entry. Designated city staff, or designee, shall have right-of-entry, at reasonable times, on or upon the property of any person subject to this chapter and access to any permit/document issued hereunder. City staff, or designee, shall be provided ready access to all parts of the premises for purposes of inspection, monitoring, sampling, inventory, records examination and copying, and performance of any other duties necessary to determine compliance with this chapter.

Designated city staff, or designee, shall have the right to set up on the property of any person subject to this chapter such devices, as are necessary, to conduct sampling and/or flow measurement of the property's stormwater operations or discharges.

The city has the right to determine and impose inspection schedules necessary to enforce provisions of this chapter.

(5) Stormwater ordinance. The intended purpose of this ordinance is to safeguard property and public welfare by regulating stormwater quality and drainage while requiring temporary and permanent provisions for its control. (Ord. #23-08, Nov. 2023)

**18-702. Definitions.** For the purpose of this chapter, the following definitions shall apply: words used in the singular shall include the plural, and the plural shall include the singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary.

The word "may" is permissive. Words not defined in this section shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

(1) "Administrative or civil penalties." Under the authority provided in *Tennessee Code Annotated*, § 68-221-1106, the city declares that any person violating the provisions of this chapter may be assessed a civil penalty by the city of not less than fifty dollars (\$50.00) and not more than five thousand dollars (\$5,000.00) per day for each day of violation. Each day of violation shall constitute a separate violation.

(2) "Agricultural land management activities" means the practice of cultivating the soil, producing crops, and raising livestock for the preparation and marketing of the resulting products.

(3) "As built plans" means drawings depicting conditions, elevation, location, and material of stormwater facilities as they were actually constructed.

(4) "Best Management Practices (BMPs)" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to waters of the state. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. BMPs include source control practices (non-structural BMPs) and engineered structures designed to treat runoff. Structural BMPs are facilities that help prevent pollutants in stormwater runoff from leaving the site. Non-structural BMPs are techniques, activities and processes that reduce pollutants at the source.

(5) "Borrow pit" is an excavation from which erodible material (typically soil) is removed to be fill for another site. There is no processing or separation of erodible material conducted at the site. Given the nature of activity and pollutants present at such excavation, a borrow pit is considered a construction activity for the purpose of this permit.

(6) "Buffer zone" is a permanent strip of natural perennial vegetation, adjacent to a stream, river, wetland, pond, or lake that contains dense vegetation made up of grass, shrubs, and/or trees. The purpose of a water quality riparian buffer is to maintain existing water quality by minimizing risk of any potential sediments, nutrients or other pollutants reaching adjacent surface waters and to further prevent negative water quality impacts by providing canopy over adjacent waters.

(7) "Channel" means a natural or artificial watercourse of perceptible extent, with definite bed and banks to confine and conduct continuously or periodically flowing water.

(8) "Common plan of development or sale" is broadly defined as any announcement or documentation (including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, computer design, etc.) or physical demarcation (including boundary signs, lot stakes, surveyor markings, etc.) indicating construction activities may occur on

a specific plot. A common plan of development or sale identifies a situation in which multiple areas of disturbance are occurring on contiguous areas. This applies because the activities may take place at different times, on different schedules, by different operators.

(9) "Construction" is the disturbance of soil and land by erection, building, acquisition, alteration, reconstruction, improvement or extension of stormwater facilities; preliminary planning to determine the economic and engineering feasibility of stormwater facilities; the engineering, legal, fiscal and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures, and other action necessary in the construction of stormwater facilities; and the inspection and supervision of the construction of stormwater facilities.

(10) "Contaminant" means any physical, chemical, biological, or radiological substance or matter in water that degrades the quality of the water.

(11) "Design storm event" means a hypothetical storm event, of a given frequency interval and duration, used in the analysis and design of a stormwater facility. The estimated design rainfall amounts, for any return period interval (i.e., 1-year, 2-year, 5-year, 10-year, 25-year, etc.) in terms of either 24-hour depths or intensities for any duration, can be found by accessing the NOAA National Weather Service Atlas 14 data for Tennessee. For temporary erosion and sediment control practices, the design storm is the 5-year, 24-hour event. Other data sources may be acceptable with prior written approval by Tennessee Department of Environment and Conservation (TDEC) Water Pollution Control.

(12) "Discharge" means dispose, deposit, spill, pour, inject, seep, dump, leak or place by any means, or that which is disposed, deposited, spilled, poured, injected, seeped, dumped, leaked, or placed by any means including any direct or indirect entry of any solid or liquid matter into the municipal separate storm sewer system.

(13) "Disturbed area" or "disturbance," means the total area presented as part of the development (and/or of a larger common plan of development) subject to being cleared, graded, or excavated during the life of the development. The area cannot be limited to only the portion of the total area that the site-wide owner/developer initially disturbs through the processes of various land clearing activities or in the construction of roadways, sewers and water utilities, stormwater drainage structures etc. to make the property marketable.

(14) "Easement" means an acquired privilege or right of use or enjoyment that a person, party, firm, corporation, city or other legal entity has in the land of another.

(15) "Enforcement Response Plan (ERP)" is a set of procedures which present the permittee's potential responses to violations and address repeat violation through progressive enforcement as needed to achieve compliance, These enforcement responses should be commensurate with the nature of the violation and must include enforcement responses progressing up to the

maximum civil and criminal penalties as described in *Tennessee Code Annotated*, § 69-3-101, *et seq.*, the enforcement response procedures or methods must address all violations of prohibitions and requirements applicable to this permit that are contained in the permittee's statutes, codes or other control mechanisms as well as other violations of the permit. The enforcement response procedures or methods documentation must be referenced by or included in the permittee's statutes, codes or other control mechanisms. The enforcement responses may include actions such as written notices, citations with administrative penalties, stop work orders, withholding of plans approvals or other authorizations, or any other administrative judicial action.

(16) "Erosion" means the removal of soil particles by the action of water, wind, ice or other geological agents, whether naturally occurring or acting in conjunction with or promoted by human activities or effects.

(17) "Erosion Prevention and Sediment Control Plan (EPSCP)" means a written plan (including drawings or other graphic representations) that is designed to minimize the erosion and sediment runoff at a site during construction activities.

(18) "Exceptional Tennessee waters." Surface waters designated by the Division as having the characteristics set forth at Tennessee Rules, Chapter 0400-40-03-.06(4). Characteristics include waters within parks or refuges, scenic rivers, waters with threatened or endangered species, waters that provide specialized recreational opportunities, waters within areas designated as lands, waters with naturally reproducing trout, waters with exceptional biological diversity and other waters with outstanding ecological or recreational value.

(19) "Illicit connections" means illegal and/or unauthorized connections to the municipal separate stormwater system whether or not such connections result in discharges into that system.

(20) "Illicit discharge" means any discharge to the municipal separate storm sewer system that is not composed entirely of stormwater and not specifically exempted under §18-709(2).

(21) "Improved sinkhole" is a natural surface depression that has been altered in order to direct fluids into the hole opening. Improved sinkhole is a type of injection well regulated under Tennessee Department of Environment and Conservation's Underground Injection Control (UIC) program. Underground injection constitutes an intentional disposal of waste waters in natural depressions, open fractures, and crevices such as those commonly associated with weathering of limestone.

(22) "Inspector." An inspector is a person that has successfully completed (has a valid certification from) the "Fundamentals of Erosion Prevention and Sediment Control Level 1" course or equivalent course, a licensed professional engineer or landscape architect, a Certified Professional in Erosion and Sediment Control (CPESC), or a person who has successfully completed the "Level 2 - Design Principles for Erosion Prevention and Sediment Control for Construction Site" course. An inspector performs and documents the

required inspections, paying particular attention to time-sensitive permit requirements such as stabilization and maintenance activities. An inspector may also have the following responsibilities:

(a) Oversee the requirements of other construction-related permits, such as Aquatic Resources Alteration Permit (ARAP) or Corps of Engineers permit for construction activities in or around waters of the state;

(b) Conduct pre-construction inspection to verify that undisturbed areas have been properly marked and initial measures have been installed;

(c) Update field Stormwater Pollution Prevention Plan(s) (SWPPP); and

(d) Inform the permit holder of activities that may be necessary to gain or remain in compliance with the Construction General Permit (CGP) and other environmental permits.

(23) "Land disturbing activity" means any activity on property that results in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land-disturbing activities include, but are not limited to, development, re-development, demolition, construction, reconstruction, clearing, grading, filling, and excavation.

(24) "Maintenance" means any activity that is necessary to keep a stormwater facility in good working order so as to function as designed. Maintenance shall include complete reconstruction of a stormwater facility if reconstruction is needed in order to restore the facility to its original operational design parameters. Maintenance shall also include the correction of any problem on the site property that may directly impair the functions of the stormwater facility. Maintenance programs have the ultimate goal of preventing or reducing pollutant runoff from municipal operations.

(25) "Maintenance agreement" means a document recorded in the land records that acts as a property deed restriction, and which provides for long-term maintenance of stormwater control measures (SCMs).

(26) "Municipal Separate Storm Sewer System (MS4)." Defined in 40 CFR § 122.26(b)(8) to mean a conveyance or system of conveyances (e.g., roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that are:

(a) Owned or operated by a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribal organization or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States;

- (b) Designed or used for collecting or conveying stormwater;
- (c) Not a combined sewer; and
- (d) Not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR § 122.2.

(27) "National Pollutant Discharge Elimination System permit" or an "NPDES permit" means a permit issued pursuant to 33 U.S.C. 1342.

(28) "Off-site facility" means a structural BMP located outside the subject property boundary described in the permit application for land development activity.

(29) "On-site facility" means a structural BMP located within the subject property boundary described in the permit application for land development activity.

(30) "Operator" in the context of stormwater associated with construction activity, means any person associated with a construction project that meets either of the following two criteria:

(a) This person has operational or design control over construction plans and specifications, including the ability to make modifications to those plans and specifications. This person is typically considered the owner or developer of the project or a portion of the project (e.g., subsequent builder) or the person who is the current owner of the construction site, and is considered the primary permittee; or

(b) This person has day-to-day operational control of those activities at a project which are necessary to ensure compliance with a SWPPP for the site or other permit conditions. This person is typically a contractor or a commercial builder who is hired by the primary permittee and is considered a secondary permittee.

It is anticipated at different phases of a construction project; different types of parties may satisfy the definition of "operator."

(31) "Peak flow" means the maximum instantaneous rate of flow of water at a particular point resulting from a storm event.

(32) "Permanent stabilization" all soil disturbing activities at the site have been completed and one of the three following criteria is met:

(a) A perennial, preferably native, vegetative cover with uniform (i.e., evenly distributed, without large bare areas) density of at least 90 percent has been established on all unpaved areas and areas not covered by permanent structures, and all slopes and channels have been permanently stabilized against erosion.

(b) Equivalent permanent stabilization measures such as the use of riprap; permanent geotextiles; hardened surface materials including concrete, asphalt, gabion baskets or Reno mattresses have been employed.

(c) For construction projects on lands used for agricultural or silvicultural purposes, permanent stabilization may be accomplished by

returning the disturbed land to its preconstruction agricultural or silvicultural use, see "stabilization"

(33) "Person" means any and all persons, natural or artificial, including any individual, firm or association and any municipal or private corporation organized or existing under the laws of this or any other state or country.

(34) "Point source or outfall" means any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include introduction of pollutants from non-point source agricultural or silvicultural activities, including stormwater runoff from orchards, cultivated crops, pastures, range lands, forest lands or return flows from irrigated agriculture or agricultural stormwater runoff. In short, outfall is a point where runoff leaves the site as a concentrated flow in a discrete conveyance.

(35) "Priority area" means an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater. The following land uses and activities are deemed stormwater priority areas, but that term is not limited to only these land uses:

- (a) Vehicle salvage yards and recycling facilities;
- (b) Vehicle service and maintenance facilities;
- (c) Vehicle and equipment cleaning facilities;
- (d) Fleet storage areas (bus, truck, etc.);
- (e) Industrial sites (included on standard industrial classification code list);
- (f) Marinas (service and maintenance);
- (g) Public works storage areas;
- (h) Facilities that generate or store hazardous waste materials;
- (i) Commercial container nursery;
- (j) Restaurants and food service facilities; or
- (k) Other land uses and activities as designated by an appropriate review authority

(36) "Redevelopment" means building or constructing new infrastructure in an area that has previously been built or constructed on, and the old infrastructure is to be replaced with new that results in a disturbed area of at least ten thousand square feet (10,000 sq. ft).

(37) "Runoff," see "Stormwater".

(38) "Sediment" means solid material, both inorganic (mineral) and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice as a product of erosion.

(39) "Sedimentation" means the action or process of forming or depositing sediment.

(40) "Sinkhole" means a cavity in the ground providing a route for surface water to disappear underground.

(41) "Soils report" means a study of soils on a subject property with the primary purpose of characterizing and describing the soils. The soils report shall be prepared by a qualified soils engineer, who shall be directly involved in the soil characterization either by performing the investigation or by directly supervising employees conducting the investigation.

(42) "Stabilization" means providing adequate measures, vegetative and/or structural, that will prevent erosion from occurring, see "permanent stabilization" and "temporary stabilization."

(43) "Stormwater" means rainfall runoff, snow melt runoff, and surface runoff and drainage.

(44) "Stormwater control measure (SCM)" means permanent practices and measures designed to reduce the discharge of pollutants from new development projects or redevelopment projects.

(45) "Stormwater entity" means the entity designated by the city to administer the stormwater management ordinance, and other stormwater rules and regulations adopted by the city.

(46) "Stormwater management" means the programs to maintain quality and quantity of stormwater runoff to pre-development levels.

(47) "Stormwater management facilities" means the drainage structures, conduits, ponds, ditches, combined sewers, sewers, and all device appurtenances by means of which stormwater is collected, transported, pumped, treated or disposed of.

(48) "Stormwater management plan" is a written compilation of the elements of the stormwater management program. It is considered a single document, even though it actually consists of separate stand-alone components.

(49) "Stormwater system" or "system" means all stormwater facilities, stormwater drainage systems and flood protection systems of the city and all improvements thereto which operate to, among other things, control discharges and flows necessitated by rainfall events; and incorporate methods to collect, convey, store, absorb, inhibit, treat, prevent or reduce flooding, over drainage, environmental degradation and water pollution or otherwise affect the quality and quantity of discharge from such system.

(50) "Stormwater Pollution Prevention Plan (SWPPP)" means a written site-specific plan that includes a narrative pollution prevention plan and graphical erosion and sediment control plan. In its basic form, the plan contains a site map(s), a description of construction activities that could introduce pollutants to stormwater runoff, a description of measures or practices to control these pollutants, and erosion and sediment control plans and specifications. It must be prepared and submitted before construction begins. In order to effectively reduce erosion and sedimentation impacts, Best Management Practices (BMPs) must be designed, installed, and maintained during land disturbing activities. The SWPPP should be prepared in accordance with the current Tennessee Erosion and Sediment Control Handbook.

(51) "Stormwater runoff," see "Stormwater".



(52) "Stream" means a surface water that is not a wet weather conveyance. [Rules and Regulations of the State of Tennessee, Chapter 0400-40-03]. Stream includes lakes, wetlands and other non-linear surface waters. See also "waters of the state."

(53) "Structural BMPs" means facilities that help prevent pollutants in stormwater runoff from leaving the site.

(54) "Surety" is a letter of credit or other acceptable form of assurance for completion of improvements as needed acceptable by the city attorney, administrator, and/or other city personnel.

(55) "Surface water" includes waters upon the surface of the earth in bounds created naturally or artificially including, but not limited to, streams, other water courses, lakes and reservoirs.

(56) "Temporary stabilization" is achieved when vegetation or non-erodible surface has been established on the area of disturbance and construction activity has temporarily ceased. Under certain conditions, temporary stabilization is required when construction activities temporarily cease. However, if future construction activity is planned, permit coverage continues, see "stabilization."

(57) "Waste site" means an area where material from a construction site is disposed of. When the material is erodible, such as soil, the site must be treated as a construction site.

(58) "Water quality riparian buffer zone" see "Buffer zone."

(59) "Water quality treatment volume (WQTV)" means a portion of the runoff generated from impervious surfaces at a new development or redevelopment project by the design storm.

(60) "Watercourse" means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

(61) "Watershed" means all the land area that contributes runoff to a particular point along a waterway.

(62) "Waters" or "waters of the state" means any and all water, public or private, on or beneath the surface of the ground, which are contained within, flow through, or border upon Tennessee or any portion thereof except those bodies of water confined to and retained within the limits of private property in single ownership which do not combine or effect a junction with natural surface or underground waters.

(63) "Wetland(s)" means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal conditions do support, a prevalence of vegetation typical to life in saturated soil conditions. Wetlands generally include, but are not limited to, swamps, marshes, bogs, and similar areas.

(64) "Wet weather conveyances" are man-made or natural watercourses, including natural watercourses that have been modified by channelization, that flow only in direct response to precipitation runoff in their immediate locality

and whose channels are at all times above the groundwater table and are not suitable for drinking water supplies; and in which hydrological and biological analyses indicate that, due to naturally occurring ephemeral or low flow during normal weather conditions, there is not sufficient water to support fish or multiple populations of obligate lotic aquatic organisms whose life cycle includes an aquatic phase of at least two months. (Rules and Regulations of the State of Tennessee, Chapter 0400-40-03). (Ord. #23-08, Nov. 2023, modified)

**18-703. Waivers.** (1) General. No waivers will be granted to any construction or site work project. All construction and site work shall provide for stormwater management as required by this ordinance. However, alternatives to the primary requirement(s) for on-site permanent stormwater management may be considered, if:

(a) Management measures cannot be designed, built and maintained to infiltrate, evapotranspire, harvest and/or use, at a minimum, the water quality treatment volume (WQTV) of every rainfall event preceded by seventy-two (72) hours of no measurable precipitation. Refer to the WQTV table within § 18-705(4)(e) for minimum requirements for treatment volumes and treatment types.

(b) It can be demonstrated that the proposed development will not discharge, during or after construction, stormwater runoff that contains contaminants or will otherwise not affect, impair or degrade adjacent or downstream properties, conveyances, or streams.

(c) Alternative minimum requirements for on-site management of stormwater discharges have been established in a stormwater management plan that has been approved by the city.

(2) Downstream damage, etc. prohibited. In order to receive consideration, the applicant must demonstrate to the satisfaction of the administrator that the proposed alternative will not lead to any of the following conditions downstream:

(a) Deterioration of existing culverts, bridges, dams, structures or land;

(b) Degradation of biological functions or habitat;

(c) Accelerated streambank or streambed erosion or siltation;

(d) Increased threat of flood damage to public health, life or property.

(3) Alternative request procedure. For consideration of an alternative stormwater management measure, a formal request shall be submitted to the administrator. The formal request shall be submitted with a stormwater management plan outlining why the primary stormwater management measure cannot be addressed and how the alternative measures will address the provisions outlined in this chapter. The plan shall demonstrate how the proposed development is not likely to impair attainment of the objectives of this chapter. The administrator shall notify the appellant customer of the date of the

alternative request in writing; such written notice shall be given at the address provided following review of the request. The decision made by the administrator will be final and conclusive with no further administrative review.

(4) Land disturbance permit not to be issued where alternatives requested. No land disturbance permit shall be issued where an alternative has been requested until the alternative is approved, unless allowed by the administrator. If no alternative is approved, the plans must be resubmitted with a stormwater management plan that meets the primary requirement for on-site stormwater management. If no alternative is approved, the owner has thirty (30) days to resubmit the land disturbance permit without facing additional fees. If the land disturbance permit is submitted more than thirty (30) days following the alternative request decision by the administrator, applicable fees will be charged. (Ord. #23-08, Nov. 2023)

**18-704. Land disturbance permit.** (1) General. The land disturbance permit is to be obtained by the owner(s) or owner(s) designee(s) for development or redevelopment of ten thousand square feet (10,000 sq. ft.), or greater, or less than ten thousand square feet (10,000 sq. ft.) if part of a larger plan of common development or sale. The land disturbance permit is designed to track all applicable land disturbance activities and ensure they are monitored for compliant erosion prevention and sediment controls, the absence of illicit discharges leaving the site, and compliance with the city's TDEC NPDES MS4 general permit along with any applicable TDEC construction general permits, TDEC Aquatic Resources Alteration Permits (ARAP), and any other relevant permits. Tracking of these activities allows inspection, and in cases of non-compliance, enforcement actions to be taken.

(2) Exemptions. The following land disturbance activities are exempt from the requirements of obtaining a land disturbance permit:

(a) Surface mining as is defined in *Tennessee Code Annotated*, § 59-8-202.

(b) Such minor land disturbing activities as home gardens and individual home landscaping, home repairs, home additional or modifications, home maintenance work, and other related activities that result in no soil erosion leaving the site. (Erosion Prevention and Sediment Control (ESPC) practices may be enforced through individual building permits.)

(c) Agriculture practices involving the establishment, cultivation or harvesting of products in the field or orchard, preparing and planting of pastureland, farm ponds, dairy operations, livestock and poultry management practices. Refer to § 18-702 for additional approved agricultural land management activities.

(d) Any project carried out under the technical supervision of NCRS, TDOT, TDEC, or USACE that is covered under applicable state or federal construction permits.

(e) Installation, maintenance, and repair of any underground public utility lines when such activity occurs on an existing road, street, or sidewalk which is hard surfaced and such street, curb, gutter, or sidewalk construction has been approved.

(f) Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.

These activities may be undertaken without a land disturbance permit; however, the person conducting these excluded activities shall remain responsible for conducting these activities within accordance with provisions of this ordinance and other applicable regulations including responsibility for controlling sediment, illicit discharges, and runoff.

(3) Supplemental permit. In cases where a secondary owner/operator will be working within an area already covered by an existing land disturbance permit that was issued under the name of a primary owner/operator, a supplemental land disturbance permit shall be obtained prior to commencement of the secondary owner/operator's work. The application fee may be waived for any supplemental permit. Where applicable, prior to issuance of the supplemental land disturbance permit, the secondary owner/operator must show that coverage under the site's NPDES construction general permit has been obtained. Once covered by a land disturbance permit, all primary and secondary owner/operators will be considered by the city as co-permittees. If co-permittee's involvement in the construction activities affects the same project site, they will be held jointly and severally responsible for complying with the terms of the permits issued for that site.

(4) Application. Application for the land disturbance permit shall be made to the administrator by the property owner(s) and co-permittee (if applicable). Applications are available from the assigned division. No land disturbing activities shall take place prior to approval of the land disturbance permit application. Application fees must be paid prior to issuance of the land disturbance permit.

(5) Permit requirements. The following are conditions of land disturbance permit coverage. Any violation of these conditions will make the permit holder(s) subject to all enforcement actions and penalties outlined in this ordinance.

(a) Submittal and approval by city staff, or designee and board(s) of the erosion prevention and sediment control plans.

(b) Compliance with the site's TDEC construction general permit, TDEC ARAP, TDEC underground injection well permit, FEMA floodplain development permit, and other federal or state permits where applicable.

(c) Compliance with approved erosion prevention and sediment control plan and EPSC performance standards.

(d) Implementation and maintenance of appropriate erosion prevention and sediment control best management practices.

(e) Construction site operators must control wastes such as discarded building materials, concrete truck washouts, chemicals, litter, and sanitary waste at the construction site to avoid adverse impacts to water quality.

(6) Land disturbance surety. Prior to the issuance of a permit for any land disturbance activity, the applicant shall be required to provide a surety to the City of Greenbrier to guarantee completion of all land and grade stabilization measures and improvements as shown by the approved grading plan. For areas when potentially hazardous soil or drainage conditions exist due to types of soils, steep grades, floodplain development, streams, or drainage ditches, the applicant may be required to provide a surety to guarantee completion of all land and grade stabilization measures and improvements as shown by the approved plan.

(7) Permit duration. Each land disturbance permit shall expire and become null and void when one of the following has occurred:

- (a) Six (6) months of no activity on the site has occurred.
- (b) Final stabilization of the site per the approved plans has occurred.
- (c) Issuance of a TDEC Notice of Termination (NOT). A copy must be provided to the city in order to close out the land disturbance permit.
- (d) Three (3) years from issuance of permit or if new federal or state regulations exist changing the scope of coverage where a new land disturbance permit is required.
- (e) In cases of expiration of the land disturbance permit, a permit may be re-issued with no additional fee if the plan and scope of the project submitted on the original land disturbance permit does not significantly change. When significant change applies, new permit fees must be paid. (Ord. #23-08, Nov. 2023)

**18-705. Stormwater system design: construction and permanent stormwater management performance standards.** (1) Applicability. This section shall be applicable to all land development, including, but not limited to, site plan applications, subdivision applications, land disturbance applications and grading applications. The requirements in this section shall apply to any new development or redevelopment site that meets one or more of the following criteria:

- (a) Ten thousand square feet (10,000 sq. ft.) or more;
  - (i) New development that involves land disturbance activities of ten thousand square feet (10,000 sq. ft.);
  - (ii) Redevelopment that involves other land disturbance activity of ten thousand square feet (10,000 sq. ft.);

(b) Developments and redevelopments less than ten thousand square feet (10,000 sq. ft.) of total land disturbance may also be required to obtain authorization under this ordinance if:

(i) The administrator has determined that the stormwater discharge from a site is causing, contributing to, or is likely to contribute to a violation of a state water quality standard;

(ii) The administrator has determined that the stormwater discharge is, or is likely to be a significant contributor of pollutants to waters of the state; or

(iii) Any new development or redevelopment, regardless of size, that is defined by the administrator to be a priority area land use.

(c) Other instances in which a land disturbance permit will be required include:

(i) Change in elevation of property at the discretion of the Administrator.

(ii) Any land disturbance that requires coverage under a TDEC construction general permit.

(iii) Any disturbance that requires coverage under a TDEC ARAP.

(d) Variance procedures. The stormwater administrator shall hear requests for variances from the requirements of this regulation. Requests for variances must be filed on a form provided by the stormwater administrator and will be handled in accordance with these variance procedures and internal operating rules and regulations. If the conditions under which a variance was approved are not met, or if the stormwater administrator is informed of any misrepresentation of facts in the application or at the hearing, the stormwater administrator may issue a stop work order or may withhold the use and occupancy permit for a project until any problems identified are resolved to the satisfaction of the issuing department.

(2) General requirements. Stormwater at applicable developments and redevelopments shall be managed in accordance with the requirements contained within this section.

(a) Any discharge of stormwater or other fluid to an improved sinkhole or other injection well, as defined, must be authorized by permit or rule as a Class V underground injection well under the provisions of Tennessee Department of Environment and Conservation (TDEC) Rules, chapter 0400-45-06.

(b) Stormwater design or BMP manuals. (i) Adoption. The city adopts as its MS4 stormwater design, Best Management Practices (BMP) and Stormwater Control Measures (SCM) manuals for stormwater management, construction and permanent, the following publications, which are incorporated by reference in this ordinance as if fully set out herein:

(A) *TDEC Erosion Prevention and Sediment Control Handbook*; most current edition.

(B) *Tennessee Permanent Stormwater Management and Design Guidance Manual*; most current edition.

(C) *Tennessee Guide to the Selection and Design of Stormwater Best Management Practices (BMPs)*

(D) *Metro Nashville Stormwater Management Manual Volume 5, Low Impact Development*

(E) And/or a collection of city approved BMPs or SCMs.

(ii) The publications listed above include a list of acceptable BMPs and SCMs including the specific design performance criteria and operation and maintenance requirements. These include city approved SCMs for permanent stormwater management including green infrastructure SCMs.

(iii) Stormwater facilities that are designed, constructed and maintained in accordance with these publications will be presumed to meet the minimum water quality performance standards. Refer to the WQTV table within § 18-705(4)(e) for minimum requirements for treatment volumes and treatment types.

(c) Submittal of a copy of the NOC, SWPPP and NOT to the local MS4:

(i) Permittees who discharge stormwater through an NPDES-permitted Municipal Separate Storm Sewer System (MS4) who are not exempted in section 1.4.5 (permit coverage through qualifying local program) of TDEC's Construction General Permit (CGP) must provide proof of coverage under the Construction General Permit (CGP); submit a copy of the Stormwater Pollution Prevention Plan (SWPPP); and at project completion, a copy of the signed Notice of Termination (NOT) to the administrator. Permitting status of all permittees covered (or previously covered) under this general permit as well as the most current list of all MS4 permits is available at the TDEC's data viewer web site.

(ii) Copies of additional applicable local, state or federal permits (i.e.: ARAP, etc.) must also be provided upon request.

(iii) If requested by the city, these permits must be provided before the issuance of any land disturbance permit or the equivalent.

(3) Stormwater pollution prevention plans for construction stormwater management. (a) Requirement to prepare a SWPPP: The applicant must prepare a stormwater pollution prevention plan (SWPPP) for all construction activities that complies with subsection (6) below. The purpose of this plan is to identify owner/operator activities that could

cause pollutants in the stormwater, and to describe measures or practices to control these pollutants during project construction.

(b) Stormwater pollution prevention plan general requirements: The erosion prevention and sediment control plan component of the SWPPP shall adhere to the following requirements.

(i) The potential for soil erosion and sedimentation problems resulting from land disturbing activity shall be accurately described;

(ii) The measures that are to be taken to control soil erosion and sedimentation problems shall be explained and illustrated;

(iii) The length and complexity of the plan must be commensurate with the size of the project, severity of the site condition, and potential for off-site damage.

(iv) If necessary, the measures to control soil erosion and sedimentation problems that are described in the plan shall be phased so that changes to the site that alter drainage patterns or characteristics during construction will be addressed by an appropriate phase of the plan.

(v) The plan shall be sealed by a registered professional engineer or landscape architect licensed in the State of Tennessee.

(vi) The plan shall conform to the requirements found in the general NPDES permit for stormwater discharges from construction activities (TNR100000), and shall include at least the following:

(A) Project description - Briefly describe the intended project and proposed land disturbing activity including number of units and structures to be constructed and infrastructure required.

(B) A topographic map with contour intervals of five feet (5') or less showing present conditions and proposed contours resulting from land disturbing activity.

(C) All existing drainage ways, including intermittent and wet- weather. Include any designated floodways or floodplains.

(D) A general description of existing land cover. Individual trees and shrubs do not need to be identified.

(E) Stands of existing trees as they are to be preserved upon project completion, specifying their general location on the property. Differentiation shall be made between existing trees to be preserved, trees to be removed and proposed planted trees. Tree protection measures must be identified, and the diameter of the area involved must also be identified on the plan and shown to scale.



Information shall be supplied concerning the proposed destruction of exceptional and historic trees in setbacks and buffer strips, where they exist. Complete landscape plans may be submitted separately. The plan must include the sequence of implementation for tree protection measures.

(F) Approximate limits of proposed clearing, grading and filling.

(G) Approximate flows of existing stormwater leaving any portion of the site.

(H) A general description of existing soil types and characteristics and any anticipated soil erosion and sedimentation problems resulting from existing characteristics.

(i) Location, size and layout of proposed stormwater and sedimentation control improvements.

(J) Existing and proposed drainage network.

(K) Proposed drain tile or waterway sizes.

(L) Approximate flows leaving site after construction and incorporating water run-off mitigation measures. The evaluation must include projected effects on property adjoining the site and on existing drainage facilities and systems. The plan must address the adequacy of outfalls from the development: when water is concentrated, what is the capacity of waterways, if any, accepting stormwater off-site; and what measures, including infiltration, sheeting into buffers, etc., are going to be used to prevent the scouring of waterways and drainage areas off-site, etc.

(M) The projected sequence of work represented by the grading, drainage and sedimentation and erosion control plans as related to other major items of construction, beginning with the initiation of excavation and including the construction of any sediment basins, sediment traps, or retention/detention facilities or any other structural BMPs. Sediment should be removed from sediment controls as recommended in the Tennessee Erosion and Sediment Control Handbook and must be removed when design capacity has been reduced by 50 percent. For construction sites discharging into a water with unavailable parameters due to siltation/sedimentation or Exceptional Tennessee Waters, a sediment trap shall be provided for drainage areas of 3.5 to 4.9 acres that will provide treatment for a calculated volume of runoff from a 5-year, 24-hour design storm and runoff from each acre drainage or equivalent

measures. For an on-site outfall which receives drainage from ten (10) or more acres, a sediment basin that will provide treatment for a calculated volume of runoff from a 5-year, 24-hour design storm and runoff from each acre drainage or equivalent control measures shall be provided until final stabilization of the site. For construction sites discharging into a water with unavailable parameters due to siltation/sedimentation or Exceptional Tennessee Waters, a sediment basin shall be provided for drainage areas of five (5) acres or more acres that will provide treatment for a calculated volume of runoff from a 5-year, 24-hour design storm and runoff from each acre drainage or equivalent measures as specified in the Tennessee Erosion and Sediment Control Handbook. The design drainage area includes both disturbed and undisturbed portions of the site or areas adjacent to the site, all draining through a common outfall.

(N) Specific remediation measures to prevent erosion and sedimentation run-off. Plans shall include detailed drawings of all control measures used; stabilization measures including vegetation and non-vegetation measures, both temporary and permanent, will be detailed. Detailed construction notes and a maintenance schedule shall be included for all control measures in the plan.

(O) Specific details for: the construction of stabilized construction entrance/exits, concrete washouts, sediment basins, and sediment traps for controlling erosion; road access points; eliminating or keeping soil, sediment, and debris on streets and public ways at a level acceptable to the city. Soil, sediment, and debris brought onto streets and public ways must be removed by the end of the workday to the satisfaction of the city. Failure to remove the sediment, soil or debris shall be deemed a violation of this ordinance.

(P) Proposed structures: location and identification of any proposed additional buildings, structures or development on the site.

(Q) A description of on-site measures to be taken to recharge surface water into the ground water system through runoff reduction practices.

(R) Specific details for construction waste management. Construction site operators shall control waste such as discarded building materials, concrete truck washout, petroleum products and petroleum related

products, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality. When the material is erodible, such as soil, the site must be treated as a construction site.

(4) **Stormwater quality.** To implement the objectives of this ordinance, the following general stormwater quality policy statements shall apply:

(a) There shall be no distinctly visible floating scum, oil, or other matter contained in the stormwater discharge.

(b) The stormwater discharge must not cause an objectionable color contrast in the receiving stream.

(c) The design storm for water quality treatment design shall be the 1-year, 24-hour design storm event.

(d) All roof runoff is presumed to be contaminated and, therefore, is to be included within the water quality treatment volume.

(e) The water quality treatment volume (WQTV) is the portion of the runoff generated from impervious surfaces at a new development or redevelopment project from the design storm. SCMs must be designed, at a minimum to achieve an overall treatment efficiency of eighty percent (80%) TSS removal from the WQTV. The quantity of the WQTV that must be provided from a new development or redevelopment depends on the type of treatment provided, as established in the following table:

<b>Water Quality Treatment Volume and the Corresponding SCM Treatment Type for the 1-year, 24-hour design storm</b>		
<b>SCM Treatment Type</b>	<b>WQTV</b>	<b>Notes</b>
Infiltration, evaporation, transpiration, and/or reuse	Runoff generated from the first 1 inch of the design storm	Examples include, but are not limited to bioretention, stormwater wetlands, and infiltration systems
Biologically active filtration, with an underdrain	Runoff generated from the first 1.25 inches of the design storm	To achieve biologically active filtration, SCMs must provide minimum of 2 inches of internal water storage.

<b>Water Quality Treatment Volume and the Corresponding SCM Treatment Type for the 1-year, 24-hour design storm</b>		
<b>SCM Treatment Type</b>	<b>WQTV</b>	<b>Notes</b>
Sand or gravel filtration, settling ponds, extended detention ponds, and wet ponds	Runoff generated from the first 2.5 inches of the design storm or the first seventy-five percent (75%) of the design storm, whichever is less	Examples include, but are not limited to, sand filters, permeable pavers, and underground gravel detention systems. Ponds must provide forebays comprising a minimum of 10% of the total design volume. Existing regional detention ponds are not subject to the forebay requirement.
Hydrodynamic separation, baffle box settling, other treatment devices (MTDs), and treatment trains using MTDs	Maximum runoff generated from the entire design storm	Flow-through MTDs must provide an overall treatment efficiency of at least 80% TSS reduction.

(f) Treatment trains using MTDs shall use the following calculation:

$$R = A + B - (A \times B) / 100$$

Where:

R = total TSS percent removal from application of both SCMs

A = the TSS percent removal rate applicable to the first SCM

B = the TSS percent removal rate applicable to the second SCM

TSS removal rates for MTD must be evaluated using industry-wide standards TSS removal rates for other SCMs must be from published reference literature

(g) Treatment trains using infiltration, evaporation, transpiration, reuse, or biologically active filtration followed by sand or gravel filtration, settling ponds, extended detention ponds or wet ponds may subtract the treated WQTV of the upstream SCMs from the WQTV of the downstream SCMs. Additional requirements for infiltration-based SCM treatment devices are as follows:

(i) Infiltration testing shall be required for infiltration based SCMs;

(ii) The site Engineer shall select the appropriate infiltration testing methodology, such as those provided within Metro Nashville Stormwater Management Manual; and

(iii) At a minimum, testing shall identify a minimum 2-ft separation from bedrock.

(h) SCMs must be designed to provide full treatment capacity within 72 hours following the end of the preceding rain event for the life of the new development or redevelopment project.

(i) Calculations demonstrating compliance with this section must be submitted with the Concept Plan for subdivisions and planned developments. They must be submitted with the Site Plan for all other developments.

(j) Incentive standard: The following types of development or redevelopment shall receive a twenty percent (20%) reduction in the water quality treatment volume for any one of the following conditions:

(i) Redevelopment projects (including, but not limited to, brownfield redevelopment); and

(ii) Vertical density (floor to area ratio of at least 2, or at least 18 units per acre)

(k) Stormwater discharges to critical areas with sensitive resources (i.e., cold water fisheries, shellfish beds, swimming beaches, recharge areas, water supply reservoirs, etc.) may be subject to additional performance criteria, or may need to utilize or restrict certain stormwater management practices.

(l) If hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the administrator may impose any and all additional requirements deemed necessary to control the volume, timing, and rate of runoff.

(5) Permanent stormwater management plan requirements.

(a) Requirement to prepare a permanent stormwater management plan: The permanent stormwater management plan shall be prepared and submitted to the administrator for all applicable developments and redevelopments.

(b) The permanent stormwater management plan shall include sufficient information to allow the administrator to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site, both present and future, on the water resources, the appropriateness of the measures proposed for managing stormwater generated at the project site, and design compliance with the performance standards and requirements for permanent stormwater management identified in this ordinance.

(c) The permanent stormwater management plan shall be sealed by a registered professional engineer or landscape architect licensed in the State of Tennessee.

(d) The plan shall include, at a minimum, the elements listed below:

(i) Topographic base map: Topographic base map of the site which extends a minimum of one hundred feet (100') beyond the limits of the proposed development and indicates:

(A) Existing surface water drainage including streams, ponds, culverts, ditches, sinkholes, wetlands; and the type, size, elevation, etc., of nearest upstream and downstream drainage structures;

(B) Current land use including all existing structures, locations of utilities, roads, and easements;

(C) All other existing significant natural and artificial features;

(D) Proposed land use with tabulation of the percentage of surface area to be adapted to various uses; drainage patterns; locations of utilities, roads and easements; the limits of clearing and grading.

(ii) A completed site assessment and inventory checklist (found in the Tennessee Permanent Stormwater Management and Design Guidance Manual).

(iii) Proposed structural and non-structural BMPs and SCMs ;

(iv) A written description of the site plan and justification of proposed changes in natural conditions may also be required;

(v) Calculations: hydrologic and hydraulic design calculations for the predevelopment and post-development conditions for the design storms specified in the approved stormwater design, BMP and SCM manuals. These calculations must show that the proposed stormwater management measures are capable of controlling runoff from the site in compliance with this chapter and the guidelines of the approved stormwater design, BMP and SCM manuals. Such calculations shall include:

(A) A description of the design storm frequency, duration, and intensity where applicable;

(B) Time of concentration;

(C) Soil curve numbers or runoff coefficients including assumed soil moisture conditions;

(D) EPSC design must control stormwater runoff, at a minimum, for the 5-year, 24-hour design storm.

(E) Post-development peak runoff discharge for each watershed for the 1-, 2-, 5-, 10-, 25-, 50-, and 100-year,

24-hour design storms showing discharge controlled to release at rates less than that of pre-development, with an emergency overflow capable of handling the 100-year, 24-hour discharge.

(F) Pre- and post-construction watershed maps;

(G) Infiltration rates, where applicable;

(H) The location, size and capacity of proposed stormwater management structures as well as the two existing stormwater management structures immediately downstream of the proposed development in every direction that will receive runoff. Must include the size, type, slope and invert elevation of the structures.

(i) Culvert, stormwater sewer, ditch and/or other stormwater conveyance capacities;

(J) Flow velocities;

(K) Data on the increase in rate and volume of runoff for the design storms referenced in the approved stormwater design and BMP manuals;

(L) Documentation of sources for all computation methods and field test results;

(M) Calculations showing compliance with the WQTV table as provided within § 18-705(4)(e) for minimum requirements for treatment volumes and treatment types.

(vi) Soils information. If a stormwater management control measure depends on the hydrologic properties of soils (e.g., infiltration basins), then a soils report/infiltration testing shall be submitted. The soils report shall be based on on-site boring logs or soil pit profiles and soil survey reports. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soil types present at the location of the control measure and the bedrock elevation.

(vii) Maintenance and repair plan required. The design and planning of all permanent stormwater management facilities shall include detailed maintenance and repair procedures to ensure their continued performance. These plans will identify the parts or components of a stormwater management facility that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan.

(5) Permanent stormwater management plan requirements.

(a) Requirement to prepare a permanent stormwater management plan: The permanent stormwater management plan shall

be prepared and submitted to the administrator for all applicable developments and redevelopments.

(b) The permanent stormwater management plan shall include sufficient information to allow the administrator to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site, both present and future, on the water resources, the appropriateness of the measures proposed for managing stormwater generated at the project site, and design compliance with the performance standards and requirements for permanent stormwater management identified in this ordinance.

(c) The permanent stormwater management plan shall be sealed by a registered professional engineer or landscape architect licensed in the State of Tennessee.

(d) The plan shall include, at a minimum, the elements listed below:

(i) Topographic base map: Topographic base map of the site which extends a minimum of one hundred feet (100') beyond the limits of the proposed development and indicates:

(A) Existing surface water drainage including streams, ponds, culverts, ditches, sinkholes, wetlands; and the type, size, elevation, etc., of nearest upstream and downstream drainage structures;

(B) Current land use including all existing structures, locations of utilities, roads, and easements;

(C) All other existing significant natural and artificial features;

(D) Proposed land use with tabulation of the percentage of surface area to be adapted to various uses; drainage patterns; locations of utilities, roads and easements; the limits of clearing and grading.

(ii) A completed site assessment and inventory checklist (found in the Tennessee Permanent Stormwater Management and Design Guidance Manual).

(iii) Proposed structural and non-structural BMPs and SCMs;

(iv) A written description of the site plan and justification of proposed changes in natural conditions may also be required;

(v) Calculations: hydrologic and hydraulic design calculations for the predevelopment and post-development conditions for the design storms specified in the approved stormwater design, BMP and SCM manuals. These calculations must show that the proposed stormwater management measures are capable of controlling runoff from the site in compliance with



this chapter and the guidelines of the approved stormwater design, BMP and SCM manuals. Such calculations shall include:

- (A) A description of the design storm frequency, duration, and intensity where applicable;
  - (B) Time of concentration;
  - (C) Soil curve numbers or runoff coefficients including assumed soil moisture conditions;
  - (D) EPSC design must control stormwater runoff, at a minimum, for the 5-year, 24-hour design storm.
  - (E) Post-development peak runoff discharge for each watershed for the 1-, 2-, 5-, 10-, 25-, 50-, and 100-year, 24-hour design storms showing discharge controlled to release at rates less than that of pre-development, with an emergency overflow capable of handling the 100-year, 24-hour discharge.
  - (F) Pre- and post-construction watershed maps;
  - (G) Infiltration rates, where applicable;
  - (H) The location, size and capacity of proposed stormwater management structures as well as the two existing stormwater management structures immediately downstream of the proposed development in every direction that will receive runoff. Must include the size, type, slope and invert elevation of the structures.
  - (I) Culvert, stormwater sewer, ditch and/or other stormwater conveyance capacities;
  - (J) Flow velocities;
  - (K) Data on the increase in rate and volume of runoff for the design storms referenced in the approved stormwater design and BMP manuals;
  - (L) Documentation of sources for all computation methods and field test results;
  - (M) Calculations showing compliance with the WQTV table as provided within § 18-705(4)(e) for minimum requirements for treatment volumes and treatment types.
- (vi) Soils information. If a stormwater management control measure depends on the hydrologic properties of soils (e.g., infiltration basins), then a soils report/infiltration testing shall be submitted. The soils report shall be based on on-site boring logs or soil pit profiles and soil survey reports. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soil types present at the location of the control measure and the bedrock elevation.

(vii) Maintenance and repair plan required. The design and planning of all permanent stormwater management facilities shall include detailed maintenance and repair procedures to ensure their continued performance. These plans will identify the parts or components of a stormwater management facility that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan. (Ord. #23-08, Nov. 2023)

**18-706. Water quality riparian buffer zones.** (1) Applicability. The goal of the water quality riparian buffer is to preserve undisturbed vegetation that is native to the streamside habitat in the area of the project. The water quality riparian buffer zone is required to protect waters of the state located within or immediately adjacent to the boundaries of the project, as identified using methodology from standard operating procedures for hydrologic determinations (see rules to implement a certification program for qualified hydrologic professionals, Tennessee Rules chapter 0400-40-17). Buffer zones are not primary sediment control measures and should not be relied on as such. Rehabilitation and enhancement of a natural buffer zone is allowed, if necessary, for improvement of its effectiveness of protection of the waters of the state. Vegetated, preferably native, water quality buffers protect water bodies by providing structural integrity and canopy cover, as well as stormwater infiltration, filtration and evapotranspiration. Buffer zone requirements:

(a) "Construction" or "temporary" applies to all streams adjacent to construction sites that require a land disturbance permit. The riparian buffer zone should be preserved between the top of stream bank and the disturbed construction area. Buffers shall be clearly marked on site development plans, grading permit applications, and/or concept plans. Refer to the table below for construction buffer zone requirements.

<b>Construction Water Quality Buffer Requirements for Sites That Do Not Require a CGP</b>		
<b>Receiving Feature</b>	<b>Buffer Width (ft)</b>	<b>Notes*</b>
Waters of the state	15	Only applicable for sites requiring a land disturbance permit that do not require a CGP. City approved buffer enhancement plan required for temporary buffer encroachment.

<b>Permanent Water Quality Buffer Requirements for Sites That Do Not Require a CGP</b>		
<b>Receiving Feature</b>	<b>Buffer Width (ft)</b>	<b>Notes*</b>
Waters of the state	15	Only applicable for sites requiring a land disturbance permit that do not require a CGP. City approved buffer enhancement plan required for temporary buffer encroachment.

<b>Construction Water Quality Buffer Requirements for Sites That Require CGP Coverage</b>			
<b>Receiving Feature</b>	<b>Average Buffer Width (feet)</b>	<b>Minimum Buffer Width (feet)</b>	<b>Notes*</b>
Waters with available parameters for siltation or unassessed waters	30	15	The criteria for the width of the buffer zone can be established on an average width basis at a project, as long as the minimum width of buffer zone is more than the required minimum width at any measured location. If the new development or redevelopment site encompasses both sides of a stream, buffer averaging can be applied to both sides, but must be applied independently. City approved buffer enhancement plan required for temporary buffer encroachment.
Exceptional Tennessee waters or waters with unavailable parameters for siltation	60	30	
*The administrator may approve variances from the water quality buffer requirements set forth in this chapter.			

(b) "Permanent" new development and significant redevelopment sites are required to preserve water quality buffers along waters within the MS4. Buffers shall be clearly marked on site development plans, grading permit applications, and/or concept plans. Refer to the table below for permanent buffer zone requirements.

<b>Permanent Water Quality Buffer Requirements for Sites That Require CGP Coverage</b>			
<b>Receiving Feature</b>	<b>Average Buffer Width (feet)</b>	<b>Minimum Buffer Width (feet)</b>	<b>Notes*</b>
Waters with available parameters for siltation or habitat alteration or unassessed waters	30	15	The criteria for the width of the buffer zone can be established on an average width basis at a project, as long as the minimum width of buffer zone is more than the required minimum width at any measured location. If the new development or redevelopment site encompasses both sides of a stream, buffer averaging can be applied to both sides, but must be applied independently.  City approved buffer enhancement plan required for temporary buffer encroachment.
Exceptional Tennessee waters or waters with unavailable parameters for siltation or habitat alteration	60	30	
*The administrator may approve variances from the water quality buffer requirements set forth in this chapter.			

(2) Permissible land uses. The water quality riparian buffer is to remain undisturbed for the minimum required buffer. The following land uses

are permissible within the remaining buffer subject to approval by the Administrator:

(a) Greenways, biking trails, and walking trails;

(b) Infiltration-based SCMs such as infiltration trenches and biofiltration basins may be allowed on a case-by-case basis if approved in writing by the City Engineer or designee. This can only be approved if such SCMs improve the biodiversity or aesthetic appearance of the buffer areas. Economics or constructability of a development cannot be used as criteria for allowing an SCM to be placed in the buffer;

(c) Road and utilities crossings. Private drives and private utility crossings may also be approved by the Administrator upon review of a complete submittal demonstrating that there is no feasible alternate route; and

(d) Selective landscaping and/or habitat improvement.

(3) Variations. An application for a variance shall be made in writing and must be filed with the Administrator within (90) days of the written decision of the Administrator. The application for a variance shall be filed by the first business day of the month to be considered by the Administrator at that month's meeting. Variations to the riparian buffer zone requirements set forth in this section may be issued for the following considerations:

(a) Application for a variance. Any property owner, or authorized agent thereof, may make application for a variance from the following decisions of the Administrator:

(i) Rejection of grading, drainage, and/or erosion control plan;

(ii) Rejection of a land disturbance permit;

(iii) Revocation of a land disturbing exemption according to § 18-704(2)

(b) Referral or withdrawal of an application for a variance. Any property owner, or authorized agent thereof, may petition to defer or withdraw an application for a variance. The petition to defer or withdrawal must be made in writing to the Administrator at least seventy-two (72) hours prior to the scheduled meeting of the Administrator.

(c) Decisions. A decision of the Administrator varying the application of any provision of this section or modifying a decision of the Administrator shall be by resolution of the Board, which shall specify in what manner such variations or modifications shall be made, the conditions upon which they are to be made and the reasons therefor. The Board shall, in every case, render a decision without unreasonable or unnecessary delay. Every decision of the Board shall be final, subject however, to such remedy as any aggrieved party or the city may have at law or in equity.

Variations may be issued for the repair or rehabilitation of historic structures as defined, herein, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary deviation from the requirements of this Ordinance to preserve the historic character and design of the structure.

(d) Standards for granting variations. In granting a variance, the Board shall ascertain that all the following conditions are met:

- (i) That good and sufficient cause has been provided;
- (ii) That granting the variance will not increase a threat to public health, safety, or general welfare;
- (iii) That granting the variance will not be contrary to the public interest;
- (iv) That granting the variance will not result in public expense;
- (v) That granting the variance will not knowingly conflict with other existing laws or ordinances;
- (vi) That failure to grant the variance would result in unnecessary hardship; and
- (vii) That by granting the variance, the spirit of this chapter will be observed.

(e) Records. All decisions of the board shall be in writing and shall indicate the vote of each member of the board upon the decision. Every decision shall be promptly entered into the minutes of the meeting of the board and filed with the administrator. The records of the board shall be open to public inspection and a certified copy of each decision shall be sent by mail or otherwise to the appellant.

In granting a variance, the board shall determine, and only grant, the minimum variance necessary to afford relief. (Ord. #23-08, Nov. 2023)

**18-707. Permanent stormwater management: operation, maintenance, and inspection.** (1) Requirements. Prior to project completion and surety release, the following must be submitted and accepted by the city:

- (a) As built plans. All permittees are required to submit as built plans for any structures located on-site as well as the recorded inspection and maintenance agreement and associated plans filed (original returned to the assigned division) within ninety (90) days after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be sealed by a registered professional engineer licensed to practice in Tennessee. An engineer's certification letter must be provided with the as-built drawings certifying that the as-built conditions conform to the approved design plans and specifications. Any variations from the approved design plans and specifications must be explained in the letter. Inspections shall be

performed during installation of all SCMs by the city inspector. A final inspection by the city is required before any portion of a performance, surety, security or bond will be released. Permittees shall provide at least seven (7) day notice to the city when requesting a final inspection. The city shall have the discretion to adopt provisions for a partial pro-rata release of the performance security or performance bond on the completion of various stages of development. In addition, occupation permits shall not be granted until corrections to all SCMs have been made and accepted by the city. At a minimum, as-built plans must include the invert elevation, top of casting elevation, slope, location, and material of all pipes, drainage inlets/outlets, junctions, etc. Size and material of all outlet dissipation pads, ditch size, slope, and materials. Top of berm elevations on all drainage facilities, volume of all detention/retention facilities and location and description of all SCMs.

(2) Landscaping and stabilization requirements. (a) Any area of land from which the natural vegetative cover has been either partially or wholly cleared by development activities shall stabilize. Stabilization measures shall be initiated as soon as possible in portions of the site where construction activities have temporarily or permanently ceased. Temporary or permanent soil stabilization at the construction site (or a phase of the project) must be completed no later than fourteen (14) days after the construction activity in that portion of the site has temporarily or permanently ceased. In the following situations, temporary stabilization measures are not required:

(b) Where the initiation of stabilization measures is precluded by snow cover or frozen ground conditions or adverse soggy ground conditions, stabilization measures shall be initiated as soon as practicable; or

(c) Where construction activity on a portion of the site is temporarily ceased, and earth disturbing activities will be resumed within fourteen (14) days.

(d) Permanent stabilization with perennial vegetation (using native herbaceous and woody plants where practicable) or other permanently stable, non-eroding surface shall replace any temporary measures as soon as practicable. Unpacked gravel containing fines (silt and clay sized particles) or crusher runs will not be considered a non-eroding surface.

(e) The following criteria shall apply to re-vegetation efforts:

(i) Reseeding must be done with an annual or perennial cover crop accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until such time as the cover crop is established over ninety percent (90%) of the seeded area.

(ii) Replanting with native woody and herbaceous vegetation must be accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until the plantings are established and are capable of controlling erosion.

(iii) Any area of revegetation must exhibit survival of a minimum of ninety percent (90%) of the cover crop throughout the year immediately following revegetation. Revegetation must be repeated in successive years until the minimum ninety percent (90%) survival for one (1) year is achieved.

(iv) In addition to the above requirements, a landscaping plan must be submitted with the final design describing the vegetative stabilization and management techniques to be used at a site after construction is completed. This plan will explain not only how the site will be permanently stabilized after construction, but who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved.

(3) Inspection of stormwater management facilities. Periodic inspections of facilities shall be performed, documented, and reported.

(4) Records of installation and maintenance activities. Parties responsible for the operation and maintenance of a stormwater management facility shall make records of the installation of the stormwater facility, and of all maintenance and repairs to the facility, and shall retain the records for at least three (3) years. These records shall be made available to the city during inspection of the facility and at other reasonable times upon request.

(5) Failure to meet or maintain design or maintenance standards. If a responsible party fails or refuses to meet the design or maintenance standards required for stormwater facilities under this chapter, the city, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the stormwater management facility becomes a danger to public safety or public health, the city shall notify in writing the party responsible for maintenance of the stormwater management facility. Upon receipt of that notice, the responsible person shall have thirty (30) days to effect maintenance and repair of the facility in an approved manner. In the event that corrective action is not undertaken within that time, the city may take necessary corrective action. The cost of any action by the city under this section shall be charged to the responsible party and/or a lien placed on the property by the city. (Ord. #23-08, Nov. 2023, modified)

**18-708. Existing locations and ongoing developments.** (1) On-site stormwater management facilities maintenance agreement.

(a) Where the stormwater facility is located on property that is subject to a development agreement, and the development agreement



provides for a permanent stormwater maintenance agreement that runs with the land, the owners of property must execute an inspection and maintenance agreement that shall operate as a deed restriction binding on the current property owners and all subsequent property owners and their lessees and assigns, including but not limited to, homeowner associations or other groups or entities.

(b) The maintenance agreement shall:

(i) Assign responsibility for the maintenance and repair of the stormwater facility to the owners of the property upon which the facility is located and be recorded as such on the plat for the property by appropriate notation. The owner(s) covenant and agree with the city that they shall provide for adequate long-term maintenance and continuation of stormwater control measures to ensure that all of the stormwater facilities are and remain in proper working condition in accordance with approved design standards, rules and regulations, and applicable laws. The owner(s) shall perform preventive maintenance activities at intervals described in the post construction long-term water quality plan.

The owner(s) shall submit to the city an annual report by July 1st of each year. The report shall include the long-term maintenance plan that documents inspection schedules, time of inspections, remedial actions taken to repair, modify or re-construct the system and the state of control measures.

(ii) Provide for a periodic inspection by the property owners in accordance with the requirements of subsection (v) below for the purpose of documenting maintenance and repair needs and to ensure compliance with the requirements of this chapter. The property owners will arrange for this inspection to be conducted by a registered professional engineer licensed to practice in the State of Tennessee, who will submit a signed written report of the inspection to the administrator. This report shall be completed, at a minimum, once within a five (5) year period, or as required by the city, or the Tennessee Department of Environment and Conservation, and submitted to the city's stormwater coordinator, or designee. It shall also grant permission to the city to enter the property at reasonable times and to inspect the stormwater facility to ensure that it is being properly maintained.

(iii) Provide that the minimum maintenance and repair needs include, but are not limited to: the removal of silt, litter and other debris, the cutting of grass, cutting and vegetation removal, and the replacement of landscape vegetation, in detention and retention basins, and inlets and drainage pipes and any other stormwater facilities. It shall also provide that the property owners

shall be responsible for additional maintenance and repair needs consistent with the needs and standards outlined in the MS4 SCM manual.

(iv) Provide that maintenance needs must be addressed in a timely manner, on a schedule to be determined by the administrator.

(v) Provide that if the property is not maintained or repaired within the prescribed schedule, the administrator shall perform the maintenance and repair at its expense, and bill the same to the property owner. The maintenance agreement shall also provide that the administrator's cost of performing the maintenance shall be a lien against the property.

(2) Existing problem locations - no maintenance agreement. (a) The administrator shall in writing notify the owners of existing locations and developments of specific drainage, erosion or sediment problems affecting or caused by such locations and developments, and the specific actions required to correct those problems. The notice shall also specify a reasonable time for compliance. Discharges from existing SCMs that have not been maintained and/or inspected in accordance with this ordinance shall be regarded as illicit.

(b) Inspection of existing facilities. The city may, to the extent authorized by state and federal law, enter and inspect private property for the purpose of determining if there are illicit non-stormwater discharges, and to establish inspection programs to verify that all stormwater management facilities are functioning within design limits. These inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of the city's NPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other SCMs.

(3) Owner/operator inspections. The owners and/or the operators of stormwater management practices shall:

(a) Perform routine inspections to ensure the SCMs are properly functioning. These inspections shall be conducted on an annual basis, at a minimum. These inspections shall be conducted by a person familiar

with control measures implemented at a site. Owners or operators shall maintain documentation of these inspections. The administrator may require submittal of this documentation.

(b) Perform comprehensive inspection of all stormwater management facilities and practices. These inspections shall be conducted once every five (5) years, at a minimum. Such inspections must be conducted by either a professional engineer or landscape architect, licensed in the State of Tennessee. Complete inspection reports for these five (5) year inspections shall include:

- (i) Facility type,
- (ii) Inspection date,
- (iii) Latitude and longitude and nearest street address,
- (iv) SCM owner information (e.g. name, address, phone number, fax, and email),
- (v) A description of current SCM conditions including, but not limited to: green infrastructure practices, grassy areas, forested areas, buffer areas, growing vegetation and soil properties; inlet and outlet channels and structures; embankments, slopes, and safety benches; spillways, weirs, and other control structures; and any sediment and debris accumulation,
- (vi) Photographic documentation of SCMs, and
- (vii) Specific maintenance items or violations that need to be corrected by the SCM owner along with deadlines and reinspection dates.

(c) Owners or operators shall maintain documentation of these inspections. The administrator may require submittal of this documentation.

(4) Requirements for all existing locations and ongoing developments. The following requirements shall apply to all locations and development at which land disturbing activities have occurred previous to the enactment of this ordinance:

- (a) Denuded areas must be vegetated or covered under the standards and guidelines specified in §18-707(2) and on a schedule acceptable to the administrator.
- (b) Cuts and slopes must be properly covered with appropriate vegetation and/or retaining walls constructed.
- (c) Drainage ways shall be properly covered in vegetation or secured with rip-rap, channel lining, etc., to prevent erosion.
- (d) Trash, junk, rubbish, etc. shall be cleared from drainage ways.
- (e) Stormwater runoff shall, at the discretion of the administrator be controlled to the maximum extent practicable to prevent

its pollution. Such control measures may include, but are not limited to, the following:

- (i) Ponds
  - (A) Detention pond
  - (B) Extended detention pond
  - (C) Wet pond
  - (D) Alternative storage measures
  - (E) Bioretention pond
- (ii) Constructed wetlands
- (iii) Infiltration systems
  - (A) Infiltration/percolation trench
  - (B) Infiltration basin
  - (C) Drainage (recharge) well
  - (D) Porous pavement
- (iv) Filtering systems
  - (A) Catch basin inserts/media filter
  - (B) Sand filter
  - (C) Filter/absorption bed
  - (D) Filter and buffer strips
- (v) Open channel
  - (A) Swale

(5) Corrections of problems subject to appeal. Corrective measures imposed by the administrator under this section are subject to appeal under §18-712 of this chapter. (Ord. #23-08, Nov. 2023, modified)

**18-709. Illicit discharges.** (1) Scope. This section shall apply to all water generated on developed or undeveloped land entering the city's separate storm sewer system.

(2) Prohibition of illicit discharges. No person shall introduce or cause to be introduced into the municipal separate storm sewer system any discharge that is not composed entirely of stormwater or any discharge that flows from stormwater facility that is not inspected in accordance with §18-709 shall be an illicit discharge. Non-stormwater discharges shall include, but shall not be limited to, sanitary wastewater, commercial car wash wastewater, lawn mowing debris, lawn care chemicals, grease, soap, cleaning chemicals, radiator flushing disposal, spills from vehicle accidents, carpet cleaning wastewater, effluent from septic tanks, improper oil disposal, laundry wastewater/gray water, improper disposal of auto and household toxics. The commencement, conduct or continuance of any non-stormwater discharge to the municipal separate storm sewer system is prohibited except as described as follows:

- (a) Uncontaminated discharges -- performed in a non-erosive manner -- from the following sources:
  - (i) Water line flushing or other potable water sources;

- (ii) Landscape irrigation or lawn watering with potable water;
- (iii) Diverted stream flows;
- (iv) Rising ground water;
- (v) Uncontaminated groundwater infiltration (infiltration is defined as water other than wastewater that enters a sewer system, including sewer service connections and foundation drains, from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is not distinguished from, inflow);
  - (vi) Uncontaminated pumped groundwater;
  - (vii) Foundation or footing drains;
  - (viii) Crawl space pumps;
  - (ix) Air conditioning condensate;
  - (x) Springs;
  - (xi) Individual residential car washing;
  - (xii) Natural riparian habitat or wetland flows;
  - (xiii) Saltwater and chlorinated swimming pools (if de-salinated and dechlorinated - typically less than one (1) PPM chlorine;
  - (xiv) Firefighting activities;
  - (xv) Street wash water;
  - (xvi) Any other uncontaminated water source.
- (b) Discharges specified in writing by the city as being necessary to protect public health and safety.
- (c) Dye testing is an allowable discharge if the city has so specified in writing.
- (d) Discharges authorized by section 1.2.3. of the Construction General Permit (CGP), which comply with section 4.1.3. of the same:
  - (i) Dewatering of work areas of collected stormwater and ground water (filtering or chemical treatment may be necessary prior to discharge);
  - (ii) Waters used to wash dust and soils from vehicles where detergents are not used and detention and/or filtering is provided before the water leaves site. Wash removal of process materials such as oil, asphalt or concrete is not authorized;
  - (iii) Water used to control dust in accordance with CGP section 5.5.3.7.;
  - (iv) Potable water sources, including waterline flushings, from which chlorine has been removed to the maximum extent practicable;
  - (v) Routine external building washdown that does not use detergents or other chemicals;

- (vi) Uncontaminated, non-turbid groundwater or spring water;
- (vii) Foundation or footing drains where flows are not contaminated with pollutants (e.g. lubricants and fluids from mechanized equipment, process materials such as solvents, heavy metals, etc.).
- (viii) Discharges from emergency fire-fighting activities;
- (ix) Fire hydrant flushings;
- (x) Landscape irrigation;
- (xi) Pavement wash waters, provided spills or leaks of toxic or hazardous substances have not occurred (unless all spill material has been removed) and where soaps, solvents, and detergents are not used; and
- (xii) Uncontaminated air conditioning or compressor condensate.

(3) Prohibition of illicit connections. The construction, use, maintenance or continued existence of illicit connections to the municipal separate storm sewer system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(4) Reduction of stormwater pollutants by the use of best management practices. Any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at the person's expense, the BMPs or SCMs necessary to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed in compliance with the provisions of this section. Discharges from existing SCMs that have not been maintained and/or inspected in accordance with this ordinance shall be regarded as illicit.

(5) Notification of spills. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting in, or may result in, illicit discharges or pollutants discharging into, the municipal separate storm sewer system, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, the person shall notify the city in person or by telephone, fax, or email, no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the city within three (3) business days of the telephone notice. If the

discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years. No illegal dumping allowed. No person shall dump or otherwise deposit outside an authorized landfill, convenience center or other authorized garbage or trash collection point, any trash or garbage of any kind or description on any private or public property, occupied or unoccupied, inside the city.

(6) Priority areas. The administrator is authorized to regulate priority areas. Upon written notification by the administrator, the property owner or designated facility manager of a priority area shall, at their expense, implement necessary controls and/or best management practices to prevent discharge of contaminated stormwater to the municipal separate storm sewer system. The administrator may require the facility to maintain inspection logs or other records to document compliance with this paragraph. (Ord. #23-08, Nov. 2023)

**18-710. Enforcement.** (1) Enforcement authority. The administrator shall have the authority to issue notices of violation and citations, and to impose the civil penalties provided in this section guided by the Enforcement Response Plan (ERP). Measures authorized include:

(a) Verbal warnings. At a minimum, verbal warnings must specify the nature of the violation and required corrective action.

(b) Written notices. Written notices must stipulate the nature of the violation and the required corrective action, with deadlines for taking such action.

(c) Citations with administrative penalties. The MS4 has the authority to assess monetary penalties, which may include civil and administrative penalties.

(d) Stop work orders. Stop work orders that require construction activities to be halted, except for those activities directed at cleaning up, abating discharge, and installing appropriate control measures.

(e) Withholding of plan approvals or other authorizations. Where a facility is in noncompliance, the MS4's own approval process affecting the facility's ability to discharge to the MS4 can be used to abate the violation.

(f) Additional measures. The MS4 may also use other escalated measures provided under local legal authorities. The MS4 may perform work necessary to improve erosion control measures and collect the funds from the responsible party in an appropriate manner, such as collecting against the project's bond or directly billing the responsible party to pay for work and materials.

(2) Notification of violation. (a) Verbal warning. Verbal warning may be given at the discretion of the inspector when it appears the condition

can be corrected by the violator within a reasonable time, which time shall be approved by the inspector.

(b) Written notice. Whenever the administrator finds that any permittee or any other person discharging stormwater has violated or is violating this ordinance or a permit or order issued hereunder, the administrator may serve upon such person written notice of the violation. Within ten (10) days of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the administrator. Submission of this plan in no way relieves the discharger of liability for any violations occurring before or after receipt of the notice of violation.

(c) Consent orders. The administrator is empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the person to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to paragraphs (d) and (e) below.

(d) Show cause hearing. The administrator may order any person who violates this chapter or permit or order issued hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the person specifying the time and place for the meeting, the proposed enforcement action and the reasons for such action, and a request that the violator show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing.

(e) Compliance order. When the administrator finds that any person has violated or continues to violate this chapter or a permit or order issued thereunder, he may issue an order to the violator directing that, following a specific time period, adequate structures or devices be installed and/or procedures implemented and properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the construction of appropriate structures, installation of devices, self-monitoring, and management practices.

(f) Cease and desist and stop work orders. When the administrator finds that any person has violated or continues to violate this chapter or any permit or order issued hereunder, the administrator may issue a stop work order or an order to cease and desist all such violations and direct those persons in noncompliance to:

- (i) Comply forthwith; or
- (ii) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened



violation; including halting operations except for terminating the discharge and installing appropriate control measures.

(g) **Suspension, revocation or modification of permit.** The administrator may suspend, revoke or modify the permit authorizing the land development project or any other project of the applicant or other responsible person within the city. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated upon such conditions as the administrator may deem necessary to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.

(h) **Conflicting standards.** Whenever there is a conflict between any standard contained in this chapter and in the BMP manual(s) adopted by the city under this ordinance, the strictest standard shall prevail. (Ord. #23-08, Nov. 2023)

**18-711. Penalties.** (1) **Violations.** Any person who shall commit any act declared unlawful under this chapter, who violates any provision of this chapter, who violates the provisions of any permit issued pursuant to this chapter, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action by the administrator, shall be guilty of a civil offense.

(2) **Penalties.** Under the authority provided in *Tennessee Code Annotated*, § 68-221-1106, the city declares that any person violating the provisions of this chapter may be assessed a civil penalty by the administrator of not less than fifty dollars (\$50.00) and not more than five thousand dollars (\$5,000.00) per day for each day of violation. Each day of violation shall constitute a separate violation.

(3) **Measuring civil penalties.** In assessing a civil penalty, the administrator may consider:

- (a) The harm done to the public health or the environment;
- (b) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;
- (c) The economic benefit gained by the violator;
- (d) The amount of effort put forth by the violator to remedy this violation;
- (e) Any unusual or extraordinary enforcement costs incurred by the city;
- (f) The amount of penalty established by ordinance or resolution for specific categories of violations; and
- (g) Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.

(4) **Recovery of damages and costs.** In addition to the civil penalty in subsection (2) above, the city may recover:

(a) All damages proximately caused by the violator to the city, which may include any reasonable expenses incurred in investigating violations of, and enforcing compliance with, this chapter, or any other actual damages caused by the violation.

(b) The costs of the city's maintenance of stormwater facilities when the user of such facilities fails to maintain them as required by this chapter.

(5) Referral to TDEC. Where the city has used progressive enforcement to achieve compliance with this ordinance, and in the judgment of the city has not been successful, the city may refer the violation to TDEC. For the purposes of this provision, "progressive enforcement" shall mean two (2) follow-up inspections and/or two (2) warning notifications. In addition, enforcement referrals to TDEC must include, at a minimum, the following information:

(a) Construction project or industrial facility location;

(b) Name of owner or operator;

(c) Estimated construction project or size or type of industrial activity (including SIC code, if known);

(d) Records of communications with the owner or operator regarding the violation, including at least two (2) follow-up inspections, two (2) warning letters or notices of violation, and any response from the owner or operator.

(6) Other remedies. The city may bring legal action to enjoin the continuing violation of this chapter, and the existence of any other remedy, at law or equity, shall be no defense to any such actions.

(7) Remedies cumulative. The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action, civil or criminal, that one (1) or more of the remedies set forth herein has been sought or granted. (Ord. #23-08, Nov. 2023)

**18-712. Appeals.** Pursuant to *Tennessee Code Annotated*, § 68-221-1106(d):

(1) Appeals to be in writing. Any person aggrieved by the imposition of a civil penalty or damage assessment as provided by this article may appeal said penalty or damage assessment. Upon issuance of a citation or notice of violation of this article it shall be conclusive and final unless the accused violator submits a written notice of appeal to the administrator within ten (10) days of the violation notice being served. If the administrator does not issue a decision within ten (10) days of the written notice of appeal, then the violation is considered upheld. If the administrator does not reverse the decision, the aggrieved party may appeal to the City of Greenbrier hearing authority or successor, by filing a written request for hearing within ten (10) days of the administrator decision on the appeal. The request for hearing shall state the specific reasons why the decision of the administrator is alleged to be in error.

(2) Public hearing. Upon receipt of an appeal, the city's governing body, or other appeals board established by the city's governing body shall hold a public hearing within forty five (45) days. A minimum of ten (10) days prior notice of the time, date, and location of said hearing shall be published in a daily newspaper of general circulation and/or on the city's website. The notice shall also be provided to the aggrieved party by registered mail and sent to the address provided by the aggrieved party at the time of appeal. The decision of the governing body of the city shall be final.

(3) Appealing decisions of the city's governing body. Any alleged violator may appeal a decision of the city's governing body pursuant to the provisions of *Tennessee Code Annotated*, title 27, chapter 8. (Ord. #23-08, Nov. 2023)

**18-713. Maintenance.** (1) Maintenance responsibility:

(a) Any stormwater management facility or SCM which services individual property owners or subdivisions shall be privately owned with general routine maintenance (controlling vegetative growth and removing debris) provided for by the owner(s). The city has the right, but not the duty, to enter premises for emergency activity that is immediately necessary for the protection of life, property, or natural resources.

(b) Any stormwater management facility or SCM which services an individual subdivision in which the facility or SCM is within designated open areas or an amenity with an established homeowner's association, or inspection and maintenance agreement, shall be privately owned and maintained consistent with provisions of this ordinance. The city has the right, but not the duty, to enter premises for emergency activity that is immediately necessary for the protection of life, property, or natural resources.

(c) Any stormwater management facility or SCM which services commercial and industrial development shall be privately owned and maintained consistent with the provisions of this title. The city has the right, but not the duty, to enter premises for emergency activity that is immediately necessary for the protection of life, property, or natural resources.

(d) All regional stormwater management facilities proposed by the owners, if accepted by the city and approved by the board of mayor and aldermen for dedication as a public regional facility shall be publicly owned and maintained.

(e) All other stormwater management control facilities and SCMs shall be publicly owned and/or maintained only if accepted for maintenance by the city through a formal agreement recorded at city recorder's office. Existing or proposed drainage easements shall not constitute a formal agreement.

(f) The city may require dedication of privately owned stormwater facilities, which discharge to the city's stormwater system.

(g) It shall be unlawful for any person to permit or cause the obstruction of any drainage ditch in any public right-of-way or prescribed drainage way. (Ord. #23-08, Nov. 2023)

## CHAPTER 8

### ANIMAL AND VEGETABLE FATS, OILS AND GREASE

#### SECTION

- 18-801. Removal of fat, oil and grease.
- 18-802. Definitions.
- 18-803. Discharge of FOG.
- 18-804. Interference with sanitary sewer system operations.
- 18-805. Control of FOG.
- 18-806. Grease Control Equipment (GCE).
- 18-807. Installation of GCE.
- 18-808. Maintenance of GCE.
- 18-809. Additives.
- 18-810. Implementation.
- 18-811. Fees.
- 18-812. Permitting.
- 18-813. Enforcement.

**18-801. Removal of fat, oil and grease.** The City Council of Greenbrier encourages all users of the sanitary sewer system to take voluntary steps to reduce the amount of fats, oils, and grease that is poured, drained or washed down drains into the sanitary sewer system. (Ord. #21-05, April 2021)

**18-802. Definitions.** In the interpretation and application of this chapter, the following words and phrases shall have the indicated meanings:

(1) "Best Management Practices (BMPs)." Actions or schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the requirements of this chapter.

(2) "Black water." Wastewater containing human waste from sanitary fixtures such as toilets and urinals.

(3) "Fats, Oils, and Grease (FOG)." Organic polar compounds derived from animal and/or plant sources. If lab testing is required to quantify the amount of FOG, the Hexane Extractable Material test is to be used, or an equivalent 40 CFR 136 approved method.

(4) "Food Service Establishment (FSE)." Any establishment, business or facility engaged in preparing, serving or making food available for consumption. Single-family residences are not an FSE, however, multi-residential facilities may be considered an FSE at the discretion of the pretreatment coordinator/designee. FSEs are classified as follows:

(a) Class 1: Deli-engaged in the sale of cold-cut and microwaved sandwiches/subs with no frying or grilling on site, ice cream shops and beverage bars, as defined by North American Industrial Classification

System (NAICS) 722515, or mobile food vendors, as defined by NACIS 722330. Bed and breakfast establishments, as defined by NACIS 72119.

(b) Class 2: Limited-service restaurants (a.k.a. fast-food facilities), as defined by NACIS 722513, except fast food with a food line that is heavily fried and a history of FOG discharges that interfere with the sanitary sewer system, and catering as defined by NACIS 722320.

(c) Class 3: Full-service restaurants, as defined by NACIS 722110.

(d) Class 4: Buffet and cafeteria facilities, as defined by NACIS 72212.

(e) Class 5: Institutions (schools, hospitals, prisons, etc.), as defined by NACIS 722310, but not to exclude self-run operations.

(5) "Gray water." Refers to all other wastewater other than black water.

(6) "Grease, brown." Fats, oils, and grease that are discharged to the grease control equipment.

(7) "Grease, yellow." Fats, oils, and grease that have not been in contact with, or contaminated from, other sources such as water, wastewater, and solid waste and can be readily recycled.

(8) "Grease Control Equipment (GCE)." A device for separating and retaining wastewater FOG prior to the wastewater exiting the FSE property and entering into the sanitary sewer system. "GCE" includes grease traps and grease interceptors or other devices approved by the pretreatment coordinator/designee.

(9) "Grease interceptor." An interceptor whose rated flow exceeds fifty gallons per minute (50 g.p.m.) and is located outside the building.

(10) "Grease recycle container." A container used for the storage of yellow grease for recycling.

(11) "Grease trap." An interceptor whose rated flow is fifty gallons per minute (50 g.p.m.) or less and is typically located inside the building.

(12) "Interceptor." A device designed and installed to separate and retain for removal, by automatic or manual means, deleterious, hazardous or undesirable matter from normal wastes, while permitting normal sewage or waste to discharge into the drainage system by gravity flow.

(13) "Interference." A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the sanitary sewer collection operation, the treatment processes or operations, or the sludge processes, use or disposal, or exceeds the design of the city treatment works or collection system.

(14) "Tee (influent and effluent)." A T-shaped pipe attached to the horizontal influent and effluent pipes of a grease interceptor and extending downward into the trap to depths specified by design which, on the influent side, forces influent flow into the center of the trap and prevents floating FOG from escaping the effluent pipe. (Ord. #21-05, April 2021)

**18-803. Discharge of FOG.** Greenbrier Municipal Code, § 18-309, "No user shall contribute, or cause to be contributed, directly or indirectly, any pollutant or wastewater which will pass-through or interfere with the operation and performance of the WWF. These general prohibitions apply to all such users of a WWF whether or not the user is subject to national categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements. Violations of these general and specific prohibitions, the provisions of this section, or other pretreatment standards may result in the issuance of an industrial pretreatment permit, surcharges, discontinuance of water and/or sewer service and other fines and provisions of §§ 18-310 or 18-405." (Ord. #21-05, April 2021)

**18-804. Interference with sanitary sewer system operations.** Any user who discharges animal and vegetable fat, oil, and grease in the volume or form which interferes with the operation of the sanitary sewer system may be subject to enforcement actions as specified in § 18-813 and may be billed for cleanup charges incurred by the City of Greenbrier when that user's discharge causes operation and maintenance problems in the sanitary sewer system, such as blockages, backups, overflows, interruption of service, excessive FOG accumulation in lift stations and pipes, and other FOG related problems that are tracked to that user's discharge. (Ord. #21-05, April 2021)

**18-805. Control of FOG.** (1) All existing and new FSEs shall effectively control the discharge of FOG into the sanitary sewer system. A Class 1 FSE may do this through the use of restaurant industry best management practices, such as those published by the National Restaurant Association. (See: <http://www.foodservicesomce.com/FORMS%20&%20PDFS/FOGToolKit.pdf>.) If best management practices fail to prevent sanitary sewer system interferences, Class 1 FSEs shall install Grease Control Equipment (GCE) as specified in § 18-806, or by the pretreatment coordinator/designee.

(2) All new Class 2-5 FSEs shall install grease control equipment in sizes specified in § 18-806 or by the pretreatment coordinator/designee, and properly maintain that equipment in such a way to prevent interference with the sanitary sewer system.

(3) Existing FSEs that do not meet these minimum sizes may continue to use existing GCE and/or best management practices if the discharge from the FSE is not interfering with the sanitary sewer system and the pretreatment coordinator/designee gives written permission stating that the current GCE and practices are preventing interference with the sanitary sewer system. Upon written notice from the pretreatment coordinator/designee that the existing GCE or BMP's are inadequate to protect the sanitary sewer system from interference, the FSE shall have sixty (60) days to install additional GCE to prevent FOG interference with the sanitary sewer system.

(4) All FSEs with GCE shall maintain records on the premises of cleaning and maintenance of that equipment. Records include at a minimum: the date of cleaning or maintenance, company or person conducting the cleaning or maintenance, and the amount of grease and water removed from the equipment. A grease waste hauler completed manifest shall meet this requirement.

(5) Yellow grease, such as fryer oil, shall not be discharged into the GCE or into stormwater conveyances. The use of yellow grease recycling containers is encouraged.

(6) Owners of commercial property will be held responsible for wastewater discharges from FSE leaseholders on their property.

(7) All FSEs shall provide access to City of Greenbrier utility personnel (after proper identification) for the purpose of inspection of GCE, kitchen equipment and practices, and any cleaning and drain remediation products which relate to the wastewater and FOG discharge. (Ord. #21-05, April 2021)

**18-806. Grease Control Equipment (GCE).** (1) Minimum acceptable size of GCE is as follows. Larger sizes may be required by the pretreatment coordinator/designee.

(a) Class 1: Twenty gallons per minute (20 g.p.m.)/forty (40) pounds grease trap.

(b) Class 2: Five hundred (500) gallon grease interceptor.

(c) Class 3: One thousand (1,000) gallon grease interceptor.

(d) Class 4: One thousand five hundred (1,500) gallon grease interceptor.

(e) Class 5: Two thousand (2,000) gallon grease interceptor.

(2) Any FSE either new or existing that is found by the pretreatment coordinator/designee to be interfering with the sanitary sewer system may be asked to install GCE that is larger than the minimum size and take other steps to stop that interference.

(3) Existing FSEs that do not meet these minimum sizes may continue to use existing GCE and/or best management practices if the discharge from the FSE is not interfering with the sanitary sewer system and the pretreatment coordinator/designee gives written permission stating that the current GCE and practices are preventing interference with the sanitary sewer system. Upon written notice from the pretreatment coordinator/designee that the existing GCE or BMP's are inadequate to protect the sanitary sewer system from interference, the FSE shall have sixty (60) days to install additional GCE to prevent FOG interference with the sanitary sewer system.

(4) Additionally, FSEs that discharge the water from dishwashing machines through a grease interceptor shall install a GCE which is larger than the minimum to allow for cooling of the discharge and thereby prevent discharge of FOG into the sanitary sewer system.



(5) Grease traps. These small, under-the-counter units shall be installed according to drawings provided by the pretreatment coordinator/designee, and shall include vented flow restrictor prior to the trap. Dishwashing machines shall not be installed onto these units. Failure to follow this requirement will render the trap ineffective and the FSE shall be instructed to install a large external grease interceptor. (Ord. #21-05, April 2021)

**18-807. Installation of GCE.** (1) Owners/users are responsible for installation of the GCE.

(2) Grease traps shall be installed according to the requirements in § 18-806.

(3) All grease traps or interceptors shall be installed per manufacturer's installation instructions or engineer drawings. Manufacturer's installation instructions or engineer's drawings shall be sent to POTW prior to installation for approval.

(4) Tanks must be watertight and protected from rainwater inflow and infiltration.

(5) Two (2) access manholes with a minimum of twenty-four inches (24") diameter shall be provided, one (1) directly over the influent pipe and tee and one (1) directly over the effluent pipe and tee.

(6) Influent and effluent pipes shall be four inches (4") or larger PVC schedule 40 or stronger.

(7) Influent and effluent pipes shall be equipped with tee fittings properly positioned as follows. Influent flow shall be directed downward and the tee shall terminate twenty-four inches (24") below the water surface. Effluent tee shall block all surface grease and terminate twelve inches (12") above the bottom of the unit.

(8) The tank shall be constructed to have two (2) compartments. Two-thirds (2/3) of the volume shall be in the influent side and one third (1/3) on the effluent side. A solid baffle wall shall extend from the bottom to within six inches (6") of the top and shall be equipped with a six-inch (6") elbow installed in the baffle wall with drawing flow from the influent side of the unit at a depth of twelve inches (12") from the bottom.

(9) Manhole covers shall be of materials and strength to withstand expected surface loads, and secured to prevent accidental entry.

(10) Interceptors shall be located for effective cleaning and not blocked by structures or landscaping.

(11) Interceptor sizes greater than two thousand five hundred (2,500) gallons shall be served by two (2) tanks installed in series. (Ord. #21-05, April 2021)

**18-808. Maintenance of GCE.** (1) Owners/users are responsible for maintenance of the GCE.

(2) Grease traps should be cleaned once every two (2) weeks, or sometimes more often if the combined depth of FOG and solids exceed fifty percent (50%) of the trap. Up-to-date records of cleaning and cleaning schedule shall be kept on the premises.

(3) Grease interceptors shall be pumped when the layer of FOG and settled solids combined reaches twenty-five percent (25%) of the tank depth.

(4) When grease interceptors are pumped, the entire contents, FOG layer, settled solids and water shall be fully removed. No water may be returned to the tank.

(5) Interceptors shall be inspected for deterioration and damage by the waste grease hauler each time the unit is cleaned.

(6) Deteriorated or damaged tanks shall be repaired or replaced within sixty (60) days of notice of such conditions. (Ord. #21-05, April 2021)

**18-809. Additives.** (1) Additives include, but are not limited to, products that contain solvents, emulsifiers, surfactants, caustics, acids, enzymes and bacteria. They may be inorganic or organic in origin.

(2) The use of additives is prohibited with the following exceptions:

(a) Additives may be used to clean FSE drain lines but only in such quantities that will not cause FOG to be discharged from the GCE to the sanitary sewer, or cause temporary breakdown of the FOG that will later re-congeal in the downstream sewer pipes.

(b) If a product used can be proven to contain one hundred percent (100%) live bacteria, with no other additives, a request for permission to use the product shall be made to the pretreatment coordinator/designee. The request must be submitted, in writing, with a full disclosure material safety data sheet and a certified statement from the manufacturer. (Ord. #21-05, April 2021)

**18-810. Implementation.** This chapter empowers the pretreatment coordinator/designee to adopt reasonable operating policies to facilitate the implementation of this chapter. These policies may include, but are not limited to: FSE inspections, GCE sizing and maintenance, FSE wastewater discharge testing and monitoring, approval or disapproval of GCE servicing vendors (grease waste haulers), permitting of FSE's, and other operating policies needed to protect the sanitary sewer system from interference from FOG. (Ord. #21-05, April 2021)

**18-811. Fees.** This chapter empowers the City of Greenbrier to establish fees (through a separate fee ordinance) to offset costs associated with the implementation of this chapter. Possible fees include: inspection fees, permitting fees, surcharge fees for high strength discharges, cleanup fees associated with

FOG cleanup within the sanitary sewer system, and other fees necessary for implementation of this chapter. (Ord. #21-05, April 2021)

**18-812. Permitting.** The City of Greenbrier may use FSE permits as a way of implementing this chapter, and may further require the permitting or certification of GCE service and pumping vendors. (Ord. #21-05, April 2021)

**18-813. Enforcement.** Violators of this chapter shall be subject to city's enforcement response plan cited in Greenbrier's Municipal Code § 18-405. Establishments may be issued FSE permits, cited to City of Greenbrier court, general sessions court, chancery court, or other court of competent jurisdiction. Violators may face fines, have water and/or sewer service terminated and the City of Greenbrier may seek further remedies as needed to protect the collection system, treatment plant, receiving stream and public health. Repeated or continuous violation of this chapter is declared to be a public nuisance and may result in legal action against the property owner and/or user, and the service line may be disconnected from sewer main. Upon notice by the pretreatment coordinator/designee that a violation has, or is, occurring, the user shall immediately take steps to stop or correct the violation. The City of Greenbrier may take any or all of the following remedies:

(1) Cite the user to the City of Greenbrier or general sessions court, where each day of violation shall constitute a separate offense.

(2) In an emergency situation where the pretreatment coordinator/designee has determined that immediate action is needed to protect the public health, safety or welfare, a public water supply or the facilities of the sewerage system, the pretreatment coordinator/designee may discontinue water service or disconnect sewer service.

(3) File a lawsuit in chancery court or any other court of competent jurisdiction seeking damages against the user, and further seeking an injunction prohibiting further violations by user.

(4) Seek further remedies as needed to protect the public health, safety or welfare, the public water supply or the facilities of the sewerage system. (Ord. #21-05, April 2021)

**TITLE 19**

**ELECTRICITY AND GAS**

**CHAPTER**

**1. GAS.**

**CHAPTER 1**

**GAS**

**SECTION**

19-101. To be furnished under franchise.

**19-101. 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.<sup>1</sup> (1997 Code, § 19-101)

---

<sup>1</sup>The agreements are of record in the office of the city recorder.

**TITLE 20**

**MISCELLANEOUS**

**CHAPTER**

**1. TELEPHONE SERVICE.**

**CHAPTER 1**

**TELEPHONE SERVICE**

**SECTION**

20-101. To be furnished under franchise.

**20-101. To be furnished under franchise.** Telephone service shall be furnished for the municipality and its inhabitants under such franchise as the governing body shall grant.<sup>1</sup> 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.

---

<sup>1</sup>The agreements are of record in the office of the city recorder.

**APPENDIX**

**A. ATTACHMENT "A" TO TREE PLANTING AND PROTECTION.**

**APPENDIX A**

**ATTACHMENT "A"**

**CATEGORY ONE, SMALL DENSITY**

Franklinia (Franklinia Alatomaha)  
Flowering Dogwood (Cornus Florida)  
Redbud (Carcis Candadensis)  
Fringetree (Chioanthus Virginiana)  
Crabapple (Malus Spp.) Disease Resistant Varieties

**CATEGORY ONE, MEDIUM DENSITY**

American Holly (Ilex Opaca)  
Golden Raintree (Koelreuteria Paniculata)  
Bradford Pear (Pyrus Calloryana Bradford)

**CATEGORY ONE, LARGE DENSITY**

American Beech (Fagus Grandifolia)  
Bald Cypress (Taxodium Distichum)  
Hickory Species (Carya Distichum)  
Black Oak (Quercus Velutina)  
Northern Red Oak (Quercus Rubra)  
Post Oak (Quercus Stellata)  
Southern Red Oak (Quercus Falcata)  
Swamp Chestnut Oak (Quercus Michauxii)  
Water Oak (Quercus Nigra)  
Willow Oak (Quercus Phellos)  
Chestnut Oak (Quercus Prinus)  
Bur Oak (Quercus Macrocarpa)  
Red Maple (Acer Rubrum)  
Sugar Maple (Acer Saccharinum)  
Tulip Poplar (Liriodendron Tulipifera)

**CATEGORY TWO, SMALL DENSITY**

Crep Myrtle (Lagerstroemia Indica)  
Parsley Hawthorn (Crataegus Marshallii)

Swamp Hawthorn (*Crataegus Viridus*)  
 Deciduous Holly (*Ilex Decidua*)  
 Pawpaw (*Asimian Triloba*)  
 Sweetbay Magnolia (*Magnolia Virginiana*)

**CATEGORY TWO, MEDIUM DENSITY**

Black Cherry (*Prunus Serotina*)  
 Eastern Red Cedar (*Juniperus Virginiana*)  
 Cedar Elm (*Ulmus Crassifolia*)  
 Hophornbeam (*Ostrya Virginiana*)  
 Persimmon (*Diospyros Virginiana*)  
 Sassafras (*Sassafras Albidum*)  
 River Birch (*Betula Nigra*)

**CATEGORY TWO, LARGE DENSITY**

American Hornbeam (*Car-inus Caroliniana*)  
 Green Ash (*Fraxinum Pennsylvanica*)  
 Pumpkin Ash (*Fraxinus Tomentosa*)  
 White Ash (*Fraxinus Americana*)  
 Blackjack Oak (*Querus Marilandica*)  
 Overcup Oak (*Quercis Lyrata*)  
 Pecan (*Carya Illinoensis*)  
 Southern Catalpa (*Catalpa Speciosa*)  
 Swamp Tupelo (*Nyssa Biflora*)  
 Sweetgum (*Liquidambar Styraciflua*)  
 Sycamore (*Platinus Occidentalis*)  
 Water Locust (*Gleditsia Aquatica*)  
 Water Tupelo (*Nyssa Aquatical*)  
 Black Walnut (*Juglans Nigra*)

**CATEGORY THREE, MEDIUM DENSITY**

Black Locust (*Robinia Psuedoacacia*)  
 Boxelder (*Acer Negundo*)

**CATEGORY THREE, LARGE DENSITY**

Honeylocust (*Gleditsia Triancanthos*)  
 Loblolly Pine Maple, Silver (*Acer Saccharinum*)  
 Silver Maple (*Acer Saccharinum*)  
 Red Mulberry (*Morus Rubra*)  
 Sugarberry (*Celtis Laevigata*)

Hackberry (*Celtis Oxidentalis*)  
Willow, Black (*Salix Nigra*)  
Cottonwood (*Populus Deltoides*)  
Silver Poplar (*Populus Alba*)



ORDINANCE NO. 24-11

AN ORDINANCE ADOPTING AND ENACTING A COMPREHENSIVE CODIFICATION AND REVISION OF THE ORDINANCES OF THE CITY OF GREENBRIER, TENNESSEE.

WHEREAS some of the ordinances of the City of Greenbrier 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 Greenbrier, 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 "Greenbrier Municipal Code," now, therefore:

BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF GREENBRIER, TENNESSEE, THAT:

**Section 1. Ordinances codified.** The ordinances of the City of Greenbrier 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 "Greenbrier 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 or authorizing the establishment of a social security system or providing or changing 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, closing, 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."

Each day any violation of the municipal code continues shall constitute a separate civil offense.<sup>1</sup>

**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.

---

<sup>1</sup>State law reference

For authority to allow deferred payment of fines, or payment by installments, see Tennessee Code Annotated, § 40-24-101 et seq.

**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 9-23, 2024

Passed 2nd reading 10-7, 2024

Public hearing held on 8-5-24.

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
Recorder

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney