THE

JOHNSON CITY

MUNICIPAL

CODE

Prepared by the

MUNICIPAL TECHNICAL ADVISORY SERVICE
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THE UNIVERSITY OF TENNESSEE

in cooperation with the

TENNESSEE MUNICIPAL LEAGUE

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Change 14
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CITY OF JOHNSON CITY, TENNESSEE

MAYOR

Joe Wise

VICE MAYOR

Todd Fowler

COMMISSIONERS

Jenny Brock

John Hunter

Aaron T. Murphy

CITY MANAGER

Cathy Ball

CITY RECORDER/FINANCE DIRECTOR

Janet Jennings

PREFACE

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

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

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

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

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

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

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

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

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

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

The able assistance of Linda Dean, the MTAS Administrative Specialist and Rachel Coykendall, Program Resource Specialist, is gratefully acknowledged.

MTAS appreciates the cooperation and assistance provided by the following City of Johnson City staff members in the production of this municipal code of ordinances:

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ORDINANCE ADOPTION PROCEDURES PRESCRIBED BY THE CITY CHARTER

That all ordinances shall begin "Be it ordained by the City of Johnson City as follows:".

Reading; effective date; emergency ordinances; amendments.

That every ordinance shall be considered on three (3) different days in open session before its adoption, and not less than one (1) week shall elapse between the first and third considerations, and any ordinance not so considered shall be null and void.

The City of Johnson City may establish by ordinance a procedure for the consideration of ordinances, the minimum requirement of which shall be that the caption of an ordinance be read on each of the three (3) occasions at which the ordinance is considered as provided in the preceding paragraph. Unless otherwise provided by ordinance, applicable law, or by majority vote of the commission at the time of its consideration, it shall not be required that any ordinance be read in its entirety at any meeting at which it is under consideration. No ordinance shall be read in its entirety more than once unless required by applicable law, and in that instance only immediately prior to consideration at public hearing.

Copies of ordinances under consideration shall be available after introduction, during regular business hours at the office of the city recorder and during sessions of the board of commissioners in which the ordinance is considered.

An ordinance shall take effect immediately upon final passage thereof, unless otherwise specified by the board of commissioners or prohibited by law.

No ordinance shall be amended except by a new ordinance.

That in all cases under the preceding section, the vote shall be determined by yeas and nays; the names of the members voting for or against an ordinance shall be entered upon the journal.

That every ordinance shall be immediately taken charge of by the recorder and by him numbered, copied in an ordinance book, filed and preserved in his office.

That all ordinances of a penal nature passed shall be published at least once in a newspaper of the city, and no such ordinance shall be in force until it

is so published; provided, however, that as to any ordinance embodying a building, plumbing, or electric code or any ordinance regulating as to sanitation in the interest of public health, a single type of occupation, business or industry, if it appears to the board of city commissioners that, in view of the length of the ordinance, the newspaper publication is unnecessarily expensive, such fact shall be stated in the ordinance and such ordinance may be published by posting a certified copy thereof on a bulletin board which shall be maintained by the city for that purpose at the city hall, for a period to be prescribed in such ordinance, which shall not be less than ten (10) days, and after such publication, such ordinance shall be in full force and effect.

It shall be the duty of the city manager to keep on hand for distribution, without charge, to persons affected by such building, plumbing or sanitary ordinances a supply of printed, type-written or mimeographed copies of such ordinances; provided, however, that as to any ordinance compiling and/or codifying the laws and ordinances of the city, the board of city commissioners, if they believe it advisable, may have such ordinance printed in book form rather than published in a newspaper, and such ordinance shall be in full force and effect immediately after such printing.

It shall be [the] duty of the city manager to keep on hand a supply of such ordinances for distribution to persons affected thereby; provided, that the city manager may charge for each volume an amount to be fixed by the board of city commissioners, which amount shall not exceed the cost of the city preparing and publishing same. [Priv. Acts 1939, Art. VI, §§ 30-34]

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CHAPTER 1

CODE OF ORDINANCES - GENERAL PROVISIONS[1]

SECTION

1-101. How code designated and cited. The ordinances embraced in the following chapters and sections shall constitute and be designated as "The Code of The City of Johnson City, Tennessee," and may be so cited.[2] (1985 Code, § 1-1)

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[1]Charter references
Boundaries: art. II.
Ordinances: art. VI.

[2]Charter reference
Codification of ordinances: § 34.
State law reference
Adoption of municipal code: Tennessee Code Annotated, § 6-54-508, et seq.

1-102. Definitions and rules of construction. In the construction of this code and of all ordinances, the following definitions and rules of construction shall be observed, unless inconsistent with the manifest intent of the board of commissioners or the context clearly requires otherwise:

(1) "Board of commissioners" or "city commission." The words "board of commissioners" or "city commission" shall mean the Board of Commissioners of the City of Johnson City.

(2) "Bond." When a bond is required, an undertaking in writing shall be sufficient.

(3) "Building official." The term "building official" shall mean the chief building official of the city or his designee.

(4) "City." The words "the city" shall mean the City of Johnson City, in the counties of Washington, Sullivan, and Carter, and the State of Tennessee, except as otherwise provided.

(5) "Computation of time." The time within which an act is to be done shall be computed by excluding the first day and including the last day; and if the last day is a Saturday, a Sunday or a legal holiday, that shall be excluded.

(6) "County." The words "county" or "the county" shall mean the County of Washington, the County of Carter, or the County of Sullivan, as the case may be, in the State of Tennessee.

(7) "Gender." Words importing the masculine gender shall include the feminine and neuter.

(8) "Health department." The words "city health department" or "health department" shall mean that department designated by the city to perform the functions of a health department under this code and other laws or ordinances.

(9) "Health officer." The words "city health officer" or "health officer" shall mean the person designated by the city to perform the functions of a health officer under this code and other laws or ordinances.

(10) "Joint authority." All words giving a joint authority to three (3) or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

(11) "May." The word "may" is permissive.

(12) "Month." The word "month" shall mean a calendar month.

(13) "Number." Words used in the singular include the plural, and words used in the plural include the singular number.

(14) "Oath." The word "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

(15) "Officials, employees, etc." Whenever reference is made to officials, employees, boards, commissions, departments or other agencies by title only, i.e., "mayor," "police department," etc., they shall be deemed to refer to the

officials, employees, boards, commissions, departments or other agencies of this city.

(16) "Owner." The word "owner," applied to a building or land, shall include any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or a part of such building or land.

(17) "Person." The word "person" shall include a corporation, firm, partnership, association, organization and any other group acting as a unit, as well as an individual.

(18) "Personal property." The term "personal property" shall include money, goods, chattels, things in action, evidences of debt and every other species of property except real property, as herein defined.

(19) "Preceding," "following." The words "preceding" and "following" shall mean next before and next after, respectively.

(20) "Property." The word "property" shall include real and personal property.

(21) "Real property." The term "real property" shall include lands, tenements and hereditaments and all rights thereto and interests therein, equitable as well as legal.

(22) "Shall." The word "shall" is always mandatory and not merely directory.

(23) "Sidewalk." The word "sidewalk" shall mean that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for the use of pedestrians.

(24) "Signature" or "subscription." The term "signature" or "subscription" shall include a mark when the person cannot write, the name being written near the mark and witnessed.

(25) "State." The word "state" shall be construed as if the words "of Tennessee" followed it.

(26) "Street." The word "street" shall mean any public way, road, highway, avenue, boulevard, parkway, alley, lane, viaduct or bridge and the approaches thereto within the city.

(27) "T.C.A." The designation, "T.C.A." shall mean the Official Annotated Tennessee Code, as amended.

(28) "Tenant." The word "tenant" or "occupant" applied to a building or land, shall include any person who occupies the whole or a part of such building or land, whether or alone or with others.

(29) "Tense." Words used in the past or present tense include the future as well as the past and present, and the future includes the present.

(30) "Time standard." Whenever certain hours are named, they shall mean standard time or daylight saving time, as may be in current use in this city.

(31) "Writing." The words "writing" and "written" shall include printing, typewriting, engraving, lithographing and any other mode of representing words and letters.

(32) "Year." The word "year" shall mean a calendar year. (1985 Code, § 1-2)

1-103. Catchlines of sections. The catchlines of the several sections of this code printed in boldface type are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or re-enacted. (1985 Code, § 1-3)

1-104. General penalty. Whenever in this code or any other ordinance of the city any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or wherever in such code or other ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefor, the violation of any such provision of this code or any other ordinance shall be punished by a fine of not more than fifty dollars ($50.00) for each separate violation. Each day any violation of any ordinance shall continue shall constitute a separate offense for the purposes of this section. (Ord. #3259, Dec. 1994, modified)

1-105. Severability of parts of code. It is hereby declared to be the intention of the mayor and the board of commissioners that the sections, paragraphs, sentences, clauses and words of this code are severable, and if any word, clause, sentence, paragraph or section of this code shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining words, clauses, sentences, paragraphs and sections of this code, since the same would have been enacted by the mayor and the board of commissioners without the incorporation in this code of any such unconstitutional or otherwise invalid word, clause, sentence, paragraph or section.[1] (1985 Code, § 1-5)

1-106. Authority of boards, etc., to issue licenses or permits. Words prohibiting anything from being done, except in accordance with a license or permit, or authority from a board or officer, shall be construed as giving such a board or officer power to license or permit or authorize such a thing to be done. (1985 Code, § 1-6)

1-107. City seal; emblem. (1) A new common seal for the city is adopted, effective on and after March 4, 2022, according to the following

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[1]Charter reference
Severability of parts of charter: § 188.

description: A concentric circle enclosing a smaller circle with the words "CITY OF JOHNSON CITY, TENNESSEE" along the top of the outer band and "-ESTABLISHED 1869-" along the bottom perimeter of the outer band. A white bar spans the middle of the seal, featuring the words "JOHNSON CITY" in bold above the word "TENNESSEE." The inner circle of the seal shall have three (3) five (5) pointed stars, commonly referred to as the "tri-star" emblem, which adorns the Tennessee State Flag and was created by Johnson City resident, Colonel Le Roy Reeves in 1905, above the white bar. Below the white bar, in the lower portion of the inner circle, shall be a two (2) tone image of mountains. All colors and elements shall be consistent with the city's brand.

(2) A bicentennial emblem is adopted, effective on and after July 4, 1976, in celebration of the bicentennial year according to the following description: A circle enclosed in a concentric ring with the wording "Johnson City, Tennessee" along the lower half with the national bicentennial emblem separating the words "City" and "Tennessee" immediately above which is the likeness of the liberty bell and along the top perimeter is a likeness of the American eagle.[1] (1985 Code, § 1-7, as amended by Ord. #4801-22, March 2022 ***Ch14_06-16-22***)

1-108. <u>Provisions not affected by code</u>. Nothing in this code or the ordinance adopting this code shall affect any of the following:

(1) 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 this code;

(2) Any ordinance promising or guaranteeing the payment of money for the city, or authorizing the issuance of any bonds of the city or any evidence of the city's indebtedness, or any contract or obligation assumed by the city;

(3) Any right or franchise granted by the city to any person;

(4) Any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way in the city;

(5) Any appropriation ordinance or resolution;

(6) Any ordinance establishing and prescribing the street grades of any street in the city;

(7) Any ordinance providing for local improvements or levying or imposing taxes therefor;

(8) Any ordinance dedicating or accepting any plat or subdivision in the city;

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[1]Charter references
Municipal seal: §§ 2, 58.

(9) Any ordinance relating to fees of ambulances, fees for reclaiming or adopting impounded animals, license fees consistent with this code or building and other permit fees;

(10) Any zoning ordinance of the city; or

(11) Any ordinance prescribing traffic regulations for specific locations, prescribing through streets, parking limitations, parking prohibitions, one-way traffic, limitations on loads of vehicles or loading zones, not inconsistent with this code; and all such provisions are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this code. (1985 Code, § 1-8)

1-109. Amendments to code. (1) Amendments to any of the provisions of this code shall be made by amending such provisions by specific reference to the section number of this code. Such amendments may be in the following language: "That section ___ of the Code of the City of Johnson City, Tennessee, is hereby amended to read as follows: . . ." The new provisions may then be set out in full as desired.

(2) In the event a new section not heretofore existing in this code is to be added, the following language may be used: "That the Code of the City Johnson City, Tennessee, is hereby amended by adding a section to be numbered _____, which section reads as follows: . . ." The new section may then be set out in full as desired.

(3) All sections, articles, chapters or provisions of this code desired to be repealed shall be specifically repealed by title, chapter, or section number, as the case may be. (1985 Code, § 1-9)

1-110. Supplementation of code. (1) By contract or by city personnel, supplements to this code shall be prepared and printed whenever authorized or directed by the board of commissioners. A supplement to the code shall include all substantive permanent and general parts of ordinances passed by the board of commissioners during the period covered by the supplement and all changes made thereby in the code. The pages of a supplement shall be so numbered that they will fit properly into the code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the code will be current through the date of the adoption of the latest ordinance included in the supplement.

(2) In the operation of a supplement to this code, all portions hereof which have been repealed shall be excluded from reprinted pages.

(3) When preparing a supplement to this code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

(a) Organize the ordinance material into appropriate subdivisions;

(b) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the code printed in the supplement and make changes in such catchlines, headings and titles;

(c) Assign appropriate numbers to sections and other subdivisions to be inserted in the code and, where necessary to accommodate new material, change existing section or other subdivision numbers;

(d) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections ___ to ___" (inserting section numbers to indicate the sections of the code which embody the substantive sections of the ordinance incorporated in the code);

(e) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted in the code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the code. (1985 Code, § 1-10)

CHAPTER 2

ADMINISTRATION[1]

SECTION

1-201. Ordinances--designation. All the bylaws of the city shall be designated "ordinances," and shall be designated by number, in consecutive order, according to the date of passage. (1985 Code, § 2-1)

1-202. Ordinances--reading prior to adoption.[2] (1) Before its adoption, every ordinance shall be presented on three (3) different days in open public session. The caption shall be read prior to the passage of an ordinance on each of the three occasions at which the ordinance is presented. Unless otherwise provided by ordinance, applicable law, or by majority vote of the commission at the time of its consideration, it shall not required that any ordinance be read in its entirety at any meeting at which it is under consideration. No ordinance shall be read in its entirety more than once unless required by applicable law, and in that instance only immediately prior to consideration at public hearing.

(2) Copies of such ordinances shall be available after introduction, during regular business hours, at the office of the city recorder. Copies shall also be available during sessions of the board of commissioners. (1985 Code, § 2-2, as amended by Ord. #2783, Feb. 1989)

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[1]Charter references
Board of commissioners: art. V.
City attorney: art. X.
City manager: art. IX.
Corporate powers: art. III
Departments: art. XVIII.
Incorporation: art. I
Mayor: art. VII.
Officers and employees: art. VIII.

[2]Charter reference
Reading of ordinances: § 31.

1-203. Ordinances--recordation. All ordinances shall be recorded at length by the recorder, in the order in which they are passed, in a book kept for that purpose.[1] (1985 Code, § 2-3)

1-204. Removal of public records. All records of the city are hereby declared to be public records, open to the inspection of any citizen of the city, but no official shall permit any book, paper or other document or record to be taken from his office unless on a summons properly served and issued by some court. (1985 Code, § 2-4)

1-205. Execution of deeds. All deeds and leases of land, sold or leased by the city, and all deeds, leases, agreements, indentures, assurances and contracts made and entered into by order of the board of commissioners, shall be signed, and executed by the mayor and countersigned and the seal of the city affixed thereto and delivered by the recorder.[2] (1985 Code, § 2-5)

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[1]Charter reference
Recordation of ordinances: § 33.

[2]Charter reference
Duties of recorder generally: § 58.
Execution of deeds, etc., by mayor: § 35.

CHAPTER 3

BOARD OF COMMISSIONERS

SECTION

1-301. Legislative powers. The legislative powers of the city shall be vested in and exercised by the board of commissioners, in the manner and under the provisions of the charter of the city, as amended.[1] (1985 Code, § 2-22)

1-302. Rules of procedure. The board of commissioners may, by resolution, regulate the conduct of its members during its meetings and prescribe its own rules of procedure. Except as provided in the charter, in all cases where there is no rule, that compilation of rules of procedure known as "Robert's Rules of Order" shall be the guide.[2] (1985 Code, § 2-23)

1-303. Compelling members to attend meetings. Absent members may be compelled to attend any meeting of the board of commissioners by subpoena issued by the recorder, under the direction of two (2) commissioners, and served by a policeman; and on refusal of such member to answer such summons by his immediate attendance, he shall be fined the sum of twenty-five dollars ($25.00) by the recorder, for each offense.[3] (1985 Code, § 2-24)

1-304. Regular meetings. The regular meetings of the board of commissioners shall be held at 6:00 P.M. on the first and third Thursdays of each month in the commission chamber in the Municipal and Safety building at

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[1]Charter reference
Powers of board of commissioners: § 18, et seq.

[2]Charter reference
Rules of procedure: § 27.

[3]Charter reference
Compelling attendance: § 26.

601 East Main Street, Johnson City, Tennessee.[1] (1985 Code, § 2-25, as amended by Ord. #3035, Nov. 1991, and Ord. #3864, March 2002)

1-305. Meeting place for special meetings. All special meetings of the board of commissioners are to be held at such suitable place or places as the board shall from time to time designate by resolution.[2] (1985 Code, § 2-26)

1-306. Special committees. Special committees may be appointed, when deemed necessary by the board of commissioners, in the manner prescribed by the resolution constituting such committees. (1985 Code, § 2-27)

1-307. Vacancies. Any vacancy occurring in the board of commissioners shall be filled in accordance with the provisions of the charter.[3] (1985 Code, § 2-28)

1-308. Appoinment of board and committee members. Members of all boards and committees of the City of Johnson City whose membership has heretofore been appointed by the city manager shall be appointed by a majority vote of the Board of Commissioners of the City of Johnson City. (Ord. #2754, Nov. 1988)

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[1]Charter references
Regular meetings: § 20.
Participation in meetings by city manager: § 45.5.

[2]Charter references
Special meetings: § 21.

[3]Charter references
Filling vacancies: § 23.

CHAPTER 4

RECORDER[1]

SECTION

1-401. Duties of recorder. (1) The recorder shall be the fiscal officer of the city and, as such, shall perform the duties specified in the city charter and such other reasonable duties as may be required of him by this code or other ordinance or resolution.

(2) The recorder shall certify, under his hand and the seal of the city, all copies of such original documents, records and papers as may be required by any officer or person and charge therefor to individuals such fees for the use of the city as are charged by the clerks of the court for like services. (1985 Code, § 2-47)

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[1]Charter references

Appointment and salary of city recorder: § 39.

Recorder as finance officer: art. XII.

Recorder and taxation: art. XI.

CHAPTER 5

CITY MANAGER[1]

SECTION

1-501. Powers. (1) The city manager shall be the chief executive officer of the city and may, in such manner as he deems proper, inform himself as to conditions prevailing in any city offices, and shall have the right to inspect books, papers and records in such offices, and may call upon any officer, clerk or deputy for such information as he desires. He shall report to the board of commissioners all violations or neglect of duty by any city official that comes to his knowledge.

(2) The city manager shall have charge of the executive work of the city in its various departments and, except as otherwise provided in the city charter, he shall have sole charge of all employees of the city; but the city manager shall be subject to the control of the board of commissioners; except, that it shall not direct the city manager to make any expenditure, when there is no available cash on hand to meet the expenditure, unless at the same time the board provides means to obtain the necessary funds to meet such expenditure. (1985 Code, § 2-60)

1-502. Duties. (1) The city manager shall see that this code and all other ordinances are properly enforced; he shall have control of the police force, and is hereby empowered to call to his aid the entire force and as many other persons as he may require, to preserve the peace, to prevent or quell any unlawful assembly or riot and to preserve order and decorum in all meetings of the board of commissioners, and all persons, so called by him, shall be subject to his order while on the duty for which they are called.

(2) The city manager shall perform such other duties and exercise such other powers as are imposed upon him by law, by charter or by this code or other ordinance or resolution of the board of commissioners not in conflict with any provisions of such laws or charter. (1985 Code, § 2-61)

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[1]Charter reference
City manager: art. IX.
Supervision of departments: § 89.
Municipal code reference
Supervision of police department: § 6-101.

CHAPTER 6

CITY ENGINEER

SECTION

1-601. City engineer generally.[1] The city engineer shall be a graduate of some approved technical school in the civil engineering course, or land surveyor, who has graduated in the municipal engineering course, in some approved correspondence school, and shall have had at least three (3) years' practical experience. He shall make all the surveys, maps, profiles, specifications and estimates of cost for all public improvements; set all grade and line stakes for such work; supervise repairs and cleaning of streets and sewers; and generally do all work of an engineering nature required of him by the board of commissioners or city manager. He shall preserve monuments and benchmarks and establish new ones when necessary. He shall make and keep suitable records, in books and on plats, so plain and complete that any competent engineer can from them retrace and check all work. He shall have charge of all surveying instruments, plans, profiles, measurements and books, properly belonging to his office, and shall turn same, together with all other city property in his possession, over to his successor in the office or to the recorder, as the board may direct. He shall obtain the full and correct names of every person owning or having any interest in the lands abutting any street or way proposed to be laid out, altered, widened, graded or otherwise improved, and shall present to every person waivers of notice and damage, for his signature. Nothing in this section shall be construed to interfere with or abridge the right of the board to employ a consulting and designing engineer or architect for special work or to advise with the city engineer and supervise the work for which he is responsible. (1985 Code, § 2-48)

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[1]Charter references

Appointment and salary of city engineer: § 39.

Supervision of engineer: § 45.3.

CHAPTER 7

ELECTIONS[1]

SECTION

1-701. Conduct of persons near ballot boxes. It shall be unlawful for any person or groups of persons to hand out or distribute cards, pamphlets, pictures or literature, or in any way loaf, loiter or remain within three hundred (300) feet of any ballot box during the hours between 9:00 A.M., and 7:00 P.M., on the day of any election or primary held and conducted within the city, or to do any act whatsoever for the purpose of attempting to or influencing the vote of any eligible voter within three hundred (300) feet of any ballot box. (1985 Code, § 9-1)

1-702. Ward boundaries. The city is divided into wards, or voting precincts, as shown on the maps as prepared by the respective election commissions of Washington, Sullivan, and Carter Counties for official purposes.[2] (1985 Code, § 9-2)

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[1]Charter references.
Elections: art. IV.
State law reference
Municipal elections: Tennessee Code Annotated, § 6-53-101, et seq.
Wards: Tennessee Code Annotated, § 6-54-101, et seq.

[2]Charter reference
Wards: § 6.
State law reference
Wards: Tennessee Code Annotated, § 6-54-101, et seq.

TITLE 2

BOARDS AND COMMISSIONS, ETC.

CHAPTER

CHAPTER 1

CENTRAL BUSINESS IMPROVEMENT DISTRICT[1]

SECTION

2-101. Created. Pursuant to the powers granted by Tennessee Code Annotated, title 7, chapter 84, article 7, there is hereby created the Johnson City Downtown Centre Central Business Improvement District to contain and include all of the properties within the area herein described:

Beginning at a point in the northerly right-of-way of East Market Street as it intersects with the common property line of the City of Johnson City and the John Sevier Center; thence north 30 degrees 29 minutes west along the common line of the City of Johnson City and the John Sevier Center a distance of 227.50 feet to a point; thence south 63 degrees 05 minutes west a distance of 53.10 feet to a point; thence south 78 degrees 37 minutes west a distance of 36.8 feet to a point; thence north 29 degrees 48 minutes west a distance of 21.6 feet to a point in the easterly right-of-way line of the downtown loop; thence along the easterly right-of-way line of the downtown loop the following three (3) calls and distances: South 18 degrees 54 minutes west a distance of 132.45 feet to a point; south 15 degrees 26 minutes west a distance of 74.23 feet to a point; and south 12 degrees 50 minutes west a distance of 82.25 feet to a point; thence along a curve to the left, having a radius of 40.0 feet and an arc distance of 92.73 feet to a point, said point being in the northerly right-of-way line of East Market Street; thence along the northerly right-of-way line of East Market Street, north 60 degrees 00 minutes east a distance of 266.43 feet to the point of beginning. (1985 Code, § 2-170)

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[1]State law reference

Central business improvement districts: Tennessee Code Annotated, § 7-84-101, et seq.

2-102. Purpose; costs. The purpose of the Johnson City Downtown Centre Central Business Improvement District shall be to foster and encourage development of the downtown centre as a complete and viable commercial enterprise through development of the first floor area, or through vertical expansion of the centre for commercial purposes, or both. Since construction and other costs for the development are not to be financed from an assessment upon the property included within the improvement district, no employment of architects or engineers or levying of any special assessment is authorized by this chapter. Therefore, there shall be no allocation of costs to municipal revenues, nor shall there be any collection process enumerated within this chapter. (1985 Code, § 2-171)

2-103. Board of assessment commissioners. A board of assessment commissioners shall be appointed as required, unless it is otherwise determined that the absence of any assessment precludes this requirement.[1] (1985 Code, § 2-172)

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[1]State law reference

Board of assessment commissioners: Tennessee Code Annotated, § 7-84-303.

CHAPTER 2

BOARD OF EDUCATION[1]

SECTION

2-201. Violations. Any penalty imposed for a violation of this chapter may be suspended and finally remitted by the court trying the case, if the child in question is immediately placed in regular attendance in some school and if such fact or regular attendance is subsequently proved to the satisfaction of such court by a certificate from the principal of such school. (1985 Code, § 2-189)

2-202. City judge to determine cases. The city judge shall be vested with power to determine all cases coming within the provisions of this chapter. (1985 Code, § 2-190)

2-203. Oath of office. Each member of the board of education, upon his induction into office, shall take the following oath before the recorder:

> "I do solemnly swear that I will use my best endeavors to carry out the laws and regulations governing the public schools of the City of Johnson City, and will perform my duties as a member of the board of education to the best of my ability, so help me God." (1985 Code, § 2-191)

2-204. Powers and duties generally. The board of education and officers thereof shall perform such duties and exercise such powers as are now, or may be hereafter, imposed and conferred upon them by the laws of the state,

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[1]Charter references
City bonds: art. XV.
Departments: art. XVIII.
Department of education: art. XXIII.
Recorder as custodian of public school funds: § 58.

this code and the resolutions and other ordinances of the board of commissioners.[1] (1985 Code, § 2-192)

2-205. School attendance--generally. Every parent, guardian or other person in the city having charge or control of any child between the ages of seven (7) and sixteen (16) years shall cause such child to be enrolled and attend some school, public, private or parochial, for the entire school term in each year in the city; provided, that the phrase "school term" in this section shall be a period not exceeding nine (9) school months or one hundred eighty (180) school days; provided, further, that any child during that period may be excused temporarily from complying with the provisions of this section in whole or in part if it is shown to the local board of education:

1. That such parent, guardian or other person having charge or control of such child is not able, through extreme destitution, to provide clothing for such child;
2. That such child is mentally or physically incapacitated to attend school for the whole period or any part thereof; or
3. That such child has completed the eighth grade of the elementary school and holds a certificate of promotion to the high school.[2] (1985 Code, § 2-193)

2-206. School attendance--when parents, etc., excused. If any parent, guardian or other person having charge or control of any child embraced within the provisions of this chapter proves in defense that he is unable to compel the child under his control to attend school, he may thereupon be discharged from liability; and such child shall be proceeded against as a delinquent child under the statutes governing such cases.[3] (1985 Code, § 2-194)

2-207. Certain needy children to be reported to charity. If it is ascertained by the local board of education that any child who is required under

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[1]Charter reference
Powers of board of education generally: § 116.

[2]State law references
Children excused from compulsory attendance: Tennessee Code Annotated, § 49-6-3005.
School attendance and truancy reports: Tennessee Code Annotated, § 49-6-3007.
School term: Tennessee Code Annotated, § 49-6-3004.

[3]State law reference
Report of truant child to judge having juvenile jurisdiction: Tennessee Code Annotated, § 49-6-3007.

the provisions of this chapter to attend school is unable to do so on account of lack of clothing or food, such cases shall be reported to the appropriate agency for investigation and relief. (1985 Code, § 2-195)

2-208. <u>False statements as to age of children, etc., by parents, etc</u>. No parent, guardian or other person having charge or control of any child embraced within the provisions of this chapter shall make a false statement concerning the age of such child or the time that such child has attended school. (1985 Code, § 2-196)

TITLE 3

MUNICIPAL COURT[1]

CHAPTER

CHAPTER 1

MISCELLANEOUS

SECTION

3-101. Violations. 1. Any person violating the terms of this title shall, upon conviction, be punished as provided in § 1-104. Any police officer or other city employee convicted of a violation of the terms of this title shall, in addition to the fine provided for in § 1-104, shall be immediately dismissed from the services of the city in accordance with section 166 of the city charter.

2. It shall be the duty of the city judge to make a written report of any violation of the terms of this title to the board of commissioners, a copy of which report shall be furnished by the city judge, to each member of the board of commissioners. (1985 Code, § 8-1)

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[1]Charter references
City bonds: art. XV.
City court and judge: art. XXII.
Juvenile court and judge: art. XXV.
State law references
Collection of fines and costs: Tennessee Code Annotated, § 6-54-303, et seq.
Punishment for contempt: Tennessee Code Annotated, § 29-9-103.

CHAPTER 2

CITY COURT

SECTION

3-201. Established; presiding officer; jurisdiction; sessions. There shall be a municipal court, which shall be known as the "city court" of the city, of which the city judge shall be the judge or presiding officer, which under the charter, shall have jurisdiction of and be vested with full power to try all offenses for violation of this code or other ordinances of the city, and is also vested with concurrent jurisdiction with justices of the peace in cases of the violation of the criminal laws of the state, and to be entitled to the same fees now allowed justices of the peace for like services, the same to be paid into the city treasury. Such court shall be opened at such time or times on each day, except Sunday, as shall be set by order of the city judge with the approval of the board of commissioners, and shall continue in session until the cases before it shall have been disposed of; but, upon good cause shown, the judge of such court may in his discretion, continue as provided by law, the hearing of any case pending in such court.[1] (1985 Code, § 8-18)

2-202. Docket--generally. The city judge shall keep a docket upon which shall be entered all the cases tried in the city court, and the docket shall show, by appropriate entries thereon, the name and style of the cause; the nature of the offense, the date of the hearing; the names of the accused, the arresting officer and the presiding judge; the judgment of the court; the amount of fines and costs, or by committal to the workhouse or work gang. The docket

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[1]Charter references
City court established, jurisdiction generally: § 100.
Disposition of costs: § 106.

shall show the names of witnesses examined in each case and the fees allowed them, and the date of appeal, if the case is appealed. Columns shall also be provided for recording payments and remissions of fines. Credits to the docket shall be by posting the amount of receipts issued by the city judge and reported by him in his daily report.[1] (1985 Code, § 8-19)

3-203. Report of arrests, committals, etc.; police attendance. It shall be the duty of the chief of police, or in his absence, of any of the policemen requested by the city judge, to report to the city court at 7:00 A.M. each morning, except Sunday, all arrests and committals and the names of witnesses, and wait upon the court during all its sittings. (1985 Code, § 8-20)

3-204. Confinement of defendants prior to hearing; bail bond. All persons arrested for the violation of this code or other ordinance or bylaw of the city, or for the commission of any municipal misdemeanor committed in the city, may be confined in jail until they can have a hearing in the city court, unless such persons give proper bond and security for their appearance before such court, in which event they may be released, and any member of the police force shall have authority to take from persons arrested bonds and securities for their appearance as set out in this section. (1985 Code, § 8-21)

3-205. Commitment of intoxicated persons. If, in the opinion of the city judge, any person brought before him in answer to any charge is too intoxicated to understand his situation, or properly attend to the trial, he may commit such person to jail until he is clothed in his right mind. (1985 Code, § 8-22)

3-206. Execution of judgment on forfeited bonds. The city court shall, in cases where the parties accused have been upon bond, if they shall not appear, proceed to enter judgment upon such bonds against the principal and sureties for the full amount of the penalty thereof, and the city judge shall, after the expiration of two (2) whole days from the rendition of the judgment, issue a fieri facias to the chief of police or any assistant policeman, who shall execute the same. (1985 Code, § 8-23)

3-207. Remission of fines. No person except the city judge shall be permitted to remit a fine, fines or part of a fine, imposed upon any person by the city court. (1985 Code, § 8-24)

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[1]Charter reference
Court dockets: § 107.

3-208. Discharge of acquitted persons. All persons tried in the city court, who shall be acquitted of the offense against them, shall at once be discharged. (1985 Code, § 8-25)

3-209. Appeals. All persons convicted in the city court, and the city, shall have the right to appeal from the judgment of such court to the law court at Johnson City, where the cause shall be tried de novo; but no appeal shall be granted unless the same is prayed and obtained within two (2) days of the rendition of the judgment and a proper appeal bond is given, with solvent security, to be approved by the city judge, in no case less than the amount of judgment and costs, or upon otherwise complying with the law of the state in cases wherein the personal liberty of the defendant is involved. But in cases wherein a defendant has been convicted of an offense against this code or other ordinance of the city and fined therefor, and appeals from such conviction and fails to give bond for his appearance at the court to which he appeals, he may be confined in the city lockup, or prison, until his appeal is disposed of.[1] (1985 Code, § 8-26)

3-210. Release of prisoners. No person, except the city judge, shall be permitted to release any prisoner from the city jail, regardless of whether the prisoner has been tried by the city court or is in jail awaiting trial; but this section shall not be construed to mean that a prisoner may not be released when thought necessary by a designated physician, when such prisoner is in need of medical attention or hospitalization.[2] (1985 Code, § 8-27)

3-211. Court costs. Court costs in the total amount of fifty-four dollars ($54.00) shall be levied and collected on every individual charge (except parking violations) adjudicated or otherwise disposed of in the Johnson City Municipal Court. One dollar ($1.00) of the court costs collected on each charge shall be forwarded by the municipal court clerk to the state treasurer to be used by the administrative office of the courts for training and continuing education for municipal court judges and municipal court clerks, as required by the Municipal Court Reform Act. Three dollars ($3.00) of the court costs collected on each

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[1]Charter reference
Appeals from city court, bond: § 103.
State law references
Appellate jurisdiction of circuit court: Tennessee Code Annotated, § 16-10-112.

[2]Charter reference
Authority to release prisoners, etc.: § 102

charge shall be accounted for separately in the city's accounting records under the term Municipal Court Technology Fee.

For parking violations, court costs of one dollar ($1.00) shall be assessed as required by the Municipal Court Reform Act and shall be forwarded by the municipal court clerk to the state treasurer to be used by the administrative office of the courts for training and continuing education courses for municipal court judges and municipal court clerks. (as added by Ord. #4466-12, Oct. 2012)

3-112. <u>Local litigation tax</u>. In all cases in which a state litigation tax is imposed, a city litigation tax shall also be levied and collected, in the amount of thirteen dollars seventy-five cents ($13.75). (as added by Ord. #4466-12, Oct. 2012)

CHAPTER 3

PRISONERS

SECTION

3-301. Workhouse authorized. Whenever, in the opinion of the board of commissioners, it may be necessary, the board my purchase lands and erect or purchase buildings and provide everything necessary for a workhouse; appoint suitable persons to manage same, and make all necessary and proper regulations for the government thereof. (1985 Code, § 8-44)

3-302. Confinement--generally. Until a work house as provided in § 3-301 shall be built or established by the city, persons committed by the city judge shall be confined, when not at work, in the city jail, or in the county jail or workhouse and shall, while so confined, be under the guard and safekeeping of the keeper of the city jail or county jail or workhouse, their food and other necessities to be furnished as provided by the board of commissioners. (1985 Code, § 8-45)

3-303. Confinement--in lieu of paying fines and costs. If any person convicted of a violation of this code or other ordinance of the city, and given a fine or jail sentence, or both, shall fail to pay the fine and costs adjudged against him, he may be committed by the city judge to the county jail or workhouse, or to the custody of the officer having charge of the county prisoners, there to remain at labor until such fine and costs are paid, and such jail or workhouse sentence is served; provided, that such convict may, at any time, pay any balance of such fine and costs that may be unpaid, but in no case to be released until the expiration of such jail or workhouse sentence. (1985 Code, § 8-46)

3-304. Hard labor--generally. Persons committed as provided in this chapter shall be put to work at such labor as their health and strength will permit. Females shall be confined or kept at work separate and apart from male prisoners. The person in charge of prisoners shall be permitted to use the ball and chain, or hobbles, to prevent their escape, when he thinks it necessary. (1985 Code, § 8-47)

3-305. Hard labor--per diem. City convicts shall be worked upon the streets and other public works of the county, and shall be allowed such amount as may be established by state law for each day's work until such fine and costs are paid. (1985 Code, § 8-48)

3-306. Treatment generally. 1. The officer in charge of the city convicts shall treat them humanely, and shall provide them with good food, clean quarters, warmed as the season demands, and with water, towels and soap.

2. When any prisoner is sick or physically disabled, the jailor, or anyone else in charge of such prisoner, shall report the same to the city physician or the county jail physician, who shall examine such prisoner, and if he believes the disability will continue for some time, or that the condition of such prisoner is such as to endanger the health of other prisoners, he shall make a written report of same to the city judge, who shall have power to discharge such prisoner.[1] (1985 Code, § 8-49)

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[1]State law references

Medical care of prisoners: Tennessee Code Annotated, § 41-4-115.

CHAPTER 4

JUVENILE JUDGE AND JUVENILE ADVISORY BOARD

SECTION

3-401. Juvenile judge. (1) Jurisdiction generally. The juvenile judge shall preside over the juvenile court. He shall have jurisdiction as provided by state law, this code and other ordinances of the city.[1]

(2) Quarterly reports of cases. The juvenile judge shall meet with the juvenile advisory board created by § 3-402(1) once each month and shall submit, in writing, once each quarter, a detailed report, furnishing one (1) copy to the secretary of the advisory board and one (1) copy to the city manager, showing a list of all cases for the previous quarter, which list shall show the names or numbers, of all children committed to any home or institution.[2]

(3) Work with juvenile advisory board as to juvenile home. It shall be the duty of the juvenile judge to work in conjunction with the juvenile advisory board created by § 3-402(1) and to originate and direct the policy of the juvenile home in accordance with the latest scientific methods of dealing with children, not inconsistent with the amount of funds in the treasury. The juvenile judge shall suggest and discuss with the advisory board any changes in the policies of the home, and such changes shall be made from time to time as are thought beneficial for the better conduct and maintenance of the juvenile home. (1985 Code, §§ 8-82, 8-83, and 8-84)

3-402. Juvenile advisory board. (1) Established; composition; terms of members; compensation. (a) A juvenile advisory board consisting of nine (9) members is created to work in connection with the juvenile judge and the juvenile home.

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[1]State law reference

Jurisdiction of juvenile court: Tennessee Code Annotated, § 37-1-103, et seq.

[2]Charter reference

Juvenile court and judge: art. XXV.

State law reference

Juvenile courts and proceedings: Tennessee Code Annotated, § 37-1-101, et seq.

(b) The board of commissioners shall annually elect three (3) members of such board to serve for a period of three (3) years. The members of the advisory board shall serve without remuneration.

(1) Organization. The juvenile advisory board created in this section shall elect from its own membership a chairman, a secretary and a treasurer.

(2) Duties generally. (a) The juvenile advisory board shall have no connection with the juvenile court, but shall be limited to the supervision of the juvenile home.

(b) All officers and members of the juvenile advisory board shall keep permanent records and shall surrender and deliver them to their successors.

(3) Chairman. The chairman of the juvenile advisory board created in this section shall preside at all meetings, appoint committees and be an ex officio member of all committees. Any major problem arising in connection with the juvenile court or the juvenile home shall be discussed with the board of commissioners by the chairman.

(4) Secretary. The secretary of the juvenile advisory board created in this section shall keep a record of each meeting and shall notify the members of the juvenile advisory board of the time and place of the meeting. The secretary shall, upon request, furnish the board of commissioners a detailed report of the proceedings of the juvenile advisory board.

(5) Treasurer. The treasurer of the juvenile advisory board created in this section shall have charge of all funds for the maintenance and upkeep of the juvenile home, including all donations from any source. The treasurer, with the juvenile judge, shall also be responsible for the collection of any money due to the home by parents or friends for the care of children detained therein. The treasurer shall be the purchasing agent and, as such, he shall be responsible for the buying of necessary supplies and groceries. When directed by the advisory board to do so, he shall pay for other items, such as repairs to the building and necessary furnishings, including forms, postage, and similar supplies, and he shall keep an itemized account of receipts and expenditures and shall make a quarterly report to the board of commissioners, or shall report more often if requested by the city manager to do so. The juvenile advisory board, by a majority vote of all its members, shall employ all necessary help to be used at the juvenile home, not inconsistent with the amount of funds in the treasury.

(6) Matron of juvenile home generally. The matron of the juvenile home shall make requisitions of the juvenile advisory board for such supplies as are necessary for the well being of the children. (1985 Code, §§ 8-96--8-102)

3-403. Clerk of the juvenile court. (1) The clerk of the Juvenile Court of Johnson City, Tennessee shall be elected by the qualified voters of the City of Johnson City, Tennessee, for a term of four (4) years, beginning with the general election in August, 2016.

(2) The juvenile court clerk shall be a resident of Johnson City, Tennessee. City of Johnson City employees are not permitted to fill this position.

(3) The duties of the juvenile court clerk are to perform all the clerical functions of the juvenile court, to maintain the records of the juvenile court, and to possess all authority of other juvenile court clerks as provided in Tennessee Code Annotated, title 37, or any other general law.

(4) The board of commissioners shall appoint an interim juvenile court clerk until the first election of the juvenile court clerk in August, 2016, and in the event of any future vacancy in the position.

(5) The board of commissioners hereby appoints the municipal court clerk as the interim juvenile court clerk, pending the first election in August 2016. Pending the first election, the position of the interim juvenile court clerk shall be a part-time position.

(6) Beginning September 1, 2020, the position of the juvenile court clerk may be a full-time or part-time position. The compensation of the juvenile court clerk shall be set by resolution of the board of commissioners.

(7) Before entering upon the duties of office, the juvenile court clerk shall enter into an official bond conditioned upon the safekeeping of the records and for the faithful discharge of the duties of the juvenile court clerk's office.

(8) Before entering upon the duties of office, the juvenile court clerk shall take an oath or affirmation to support the constitutions of the United States and the State of Tennessee, and to execute the duties of the office without prejudice, partiality or favor, to the best of the clerk's skill and ability.

(9) The Board of Commissioners of the City of Johnson City, Tennessee hereby calls for an election for the position of Juvenile Court Clerk on the August, 2016, ballot.

(10) If any provision of this section or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions, or application of the section which can be given effect without the invalid provision or application, and to that end, the provisions of this section are declared to be severable. (as added by Ord. #4556-14, Nov. 2014, as amended by Ord. #4721-19, Jan. 2020 ***Ch12_6-20-20***)

TITLE 4

MUNICIPAL PERSONNEL

CHAPTER

CHAPTER 1

MISCELLANEOUS

SECTION

4-101. Standards of conduct generally. (1) No officer or agent of the city shall have a direct interest in any contract to which the city is a party or speculate in city bonds or warrants or other evidences of indebtedness; nor shall the mayor, any commissioner or other officer or agent of the city order or contract or do anything whereby a financial liability is incurred, unless authorized by existing laws or by order of the board of commissioners; nor shall any salaried official engage in, or carry on, any business or occupation which interferes with a prompt and proper discharge of his duties to the city. As used in this subsection, "direct interest" means any contract with any business in which the officer or agent is the sole proprietor, a partner or the person having the controlling interest. "Controlling interest" shall include the individual with the ownership or control of the largest number of outstanding shares owned by any single individual or corporation.

(2) No officer or agent of the city shall be indirectly interested in any contract to which the city is a party unless the officer or agent publicly acknowledges his interest and excuses himself from any of his duties which include the consideration of, voting on or overseeing the particular contract. As used in this subsection, "indirectly interested" means any contract in which the officer or agent is interested but not directly so, but includes contracts where the officer or agent is directly interested but is the sole supplier of goods or services in the city.[1] (1985 Code, § 2-45)

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[1]State law reference
Conflict of interest law: Tennessee Code Annotated, § 12-4-101, et seq.
Interest of officer in municipal contracts: Tennessee Code Annotated,
(continued...)

4-102. <u>Preferring charges against officer</u>.[1] (1) Charges against the mayor, any commissioner or any other city official shall be in writing, addressed to the board of commissioners, signed by the person making the same and filed with the recorder, or with the mayor, when such charges are against the recorder. Charges must be made as brief as possible, shall be made only on paper filed as a pleading in the case and shall be tried before such board, sitting as a court, over which the mayor shall preside. In the event of any charges against the mayor or any commissioner, such mayor or commissioner shall not sit as a member of the court. The recorder shall be the clerk of such court, unless he is on trial, in which case the board shall elect one (1) of its members to act in his stead.

(2) The recorder, at the request of the board or of any person interested in the proceedings, shall issue subpoenas or other compulsory process to compel the attendance of persons and the production of books and papers before such court or any committee of same. Any person failing or refusing to obey such summons or process shall be guilty of contempt and shall be subject to the same penalties as prescribed in like cases before the city court. The board may refer the case to a committee of its members to take evidence and prepare the case, but the final decision shall rest with the board itself and a two-thirds vote of all members of the board, qualified to vote in such court, shall be necessary for a conviction. (1985 Code, § 2-46)

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[1](...continued)
§ 6-54-107.

[1]Charter references
Punishment for contemptuous behavior: § 27.
Removal of city officers generally: § 29.

CHAPTER 2

OCCUPATIONAL SAFETY AND HEALTH PROGRAM[1]

SECTION

4-201. Title. This chapter shall be known as "The Occupational Safety and Health Program Plan" for the employees of the City of Johnson City, Tennessee. (Ord. #3975-03, Nov. 2003, as replaced by Ord. #4482-13, April 2013)

4-202. Purpose. The City of Johnson City, Tennessee in electing to update the established program plan will maintain an effective and comprehensive Occupational Safety and Health Program Plan for its employees and shall:

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

(a) Top management commitment and employee involvement;

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

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

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

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

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

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[1]The complete "Plan of Operation for the Occupational Safety and Health Program Plan for the Employees of the City of Johnson City, Tennessee" is available in the office of the city recorder.

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

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

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

(7) Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards, and provide for education and notification of all employees of the existence of this program plan. (Ord. #3975-03, Nov. 2003, as replaced by Ord. #4482-13, April 2013)

4-203. Coverage. The provisions of the Occupational Safety and Health Program Plan for the employees of the City of Johnson City, Tennessee shall apply to all employees of each administrative department, commission, board, division, or other agency whether part-time or full-time, seasonal or permanent. (Ord. #3975-03, Nov. 2003, as replaced by Ord. #4482-13, April 2013)

4-204. Standards authorized. The Occupational Safety and Health standards adopted by the City of Johnson City, Tennessee are the same as, but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in accordance with section 6 of the Tennessee Occupational Safety and Health Act of 1972.[1] (Ord. #3975-03, Nov. 2003, as replaced by Ord. #4482-13, April 2013)

4-205. Variances from standards authorized. Upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, we may request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, Variances from Occupational Safety and Health Standards, chapter 0800-01-02, as authorized by Tennessee Code Annotated, title 50. Prior to requesting such temporary variance, we will notify or serve notice to our employees, their designated representatives, or interested parties and present them with an opportunity for a hearing. The posting of

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[1]State law reference

Tennessee Code Annotated, title 50, chapter 3.

notice on the main bulletin board shall be deemed sufficient notice to employees. (Ord. #3975-03, Nov. 2003, as replaced by Ord. #4482-13, April 2013)

4-206. Administration. For the purposes of this chapter, the city manager or his designee is designated as the director of occupational safety and health to perform duties and to exercise powers assigned to plan, develop, and administer this program plan. The director shall develop a plan of operation for the program plan in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, Safety and Health Provisions for the Public Sector, chapter 0800-01-05, as authorized by Tennessee Code Annotated, title 50. (Ord. #3975-03, Nov. 2003, as replaced by Ord. #4482-13, April 2013)

4-207. Funding the program. Sufficient funds for administering and staffing the program plan pursuant to this chapter shall be made available as authorized by the Board of Commissioners of the City of Johnson City, Tennessee. (Ord. #3975-03, Nov. 2003, as replaced by Ord. #4482-13, April 2013)

CHAPTER 3

CODE OF ETHICS[1]

SECTION

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[1]State statutes dictate many of the ethics provisions that apply to municipal officials and employees. For provisions relative to the following, see the Tennessee Code Annotated (T.C.A.) sections indicated:

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

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

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

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

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

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

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

4-301. Applicability. This chapter is the code of ethics for personnel of the municipality. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of the Johnson City Housing Authority, those of the Johnson City Power Board, those of the Department of Education of the City of Johnson City, Tennessee, and those of any separate board, commission, authority, corporation, or other instrumentality appointed or created by the municipality. The words "municipal" and "municipality" include these separate entities. (as added by Ord. #4242-07, June 2007)

4-302. Definition of "personal interest." (1) "City" means the City of Johnson City, Tennessee.

(2) "City commission" means the Board of Commissioners of the City of Johnson City.

(3) "Municipal board" means the Board of Commissioners of the City of Johnson City, the Johnson City Housing Authority, the Board of Education of the City of Johnson City, the Johnson City Power Board, and any board, commission, committee, authority, corporation, or other instrumentality appointed or created by the city.

(4) "Officials and employees" means and includes any official, whether elected or appointed, officer, employee or servant, or any member of any board, agency, commission, authority or corporation, whether compensated or not, or any officer, employee or servant thereof, of a county or municipality.

(5) For purposes of sections (3) and (4), "personal interest" means:

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

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

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

(6) 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.

(7) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter. (as added by Ord. #4242-07, June 2007)

4-303. Disclosure of personal interest by official with vote. An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable

person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself[1] from voting on the measure. (as added by Ord. #4242-07, June 2007)

4-304. Disclosure of personal interest in non-voting matters. An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of discretion shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself from the exercise of discretion in the matter. (as added by Ord. #4242-07, June 2007)

4-305. 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.

(3) Notwithstanding anything to the contrary as contained in the Johnson City Municipal Code, unreported gifts, gratuities, or other consideration that have a cumulative value of fifty dollars ($50.00) or less shall automatically be exempt from the provisions of this ethics ordinance. Reported gifts, gratuities, or other consideration that have a cumulative value over fifty dollars ($50.00) shall, likewise, automatically be exempt from the provisions of this ethics ordinance. Campaign contributions of any amount shall automatically be exempt from the provisions of this ethics ordinance. An official or employee who receives a gift, gratuity, or other consideration with a cumulative value of more than fifty dollars ($50.00) shall within seventy two (72) hours of receipt of that gift, gratuity, or other consideration, file with the city manager's office a statement containing the following information: (a) a description of the gift, gratuity, or other consideration; (b) the name of the donor; (c) the date of receipt of the gift, gratuity, or other consideration; (d) and the cumulative value of the gift, gratuity, or other consideration. Except for campaign contributions, no official or employee shall accept any monetary consideration, gift, or gratuity in any event. Personal gifts to an official or employee (for birthdays, anniversaries, holidays, retirements, etc.) shall

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

automatically be exempt from the provisions of this ethics ordinance. (as added by Ord. #4242-07, June 2007)

4-306. Use of information. (1) An official or employee may not disclose any information obtained in his official capacity or position of employment that is made confidential under state or federal law except as authorized by law.

(2) An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity. (as added by Ord. #4242-07, June 2007)

4-307. Use of municipal time, facilities, etc. (1) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to himself.

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

(3) Notwithstanding anything contained in the Johnson City Municipal Code to the contrary, all officials and employees shall be allowed to use, lease, or rent municipal facilities on the same basis and under the same terms that apply to all citizens. (as added by Ord. #4242-07, June 2007)

4-308. 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. (as added by Ord. #4242-07, June 2007)

4-309. Outside employment. An official or employee may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the municipal position or conflicts with any provision of the municipality's charter or any ordinance or policy. (as added by Ord. #4242-07, June 2007)

4-310. Ethics complaints. (1) The city attorney is designated as the ethics officer of the city. Upon the written request of any 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. The city commission may designate one or more other attorneys

to act under this section in the event the city attorney has or will have a conflict of interest in a particular matter.

(2) If a complaint of a violation of any provision of this chapter is lodged against a member of the city commission, the mayor (or the vice-mayor if the complaint is against the mayor), city manager, and city attorney shall examine the same to determine whether the complaint appears to have sufficient merit to warrant further consideration. If at least two (2) of those persons determine that the complaint warrants further consideration, the city commission shall consider the complaint and determine whether (a) the complaint has merit, (b) the complaint does not have merit, or (c) the complaint has sufficient merit to warrant further investigation. If the city commission determines that a complaint warrants further investigation, it shall authorize an investigation by the city attorney or another individual or entity chosen by the city commission.

(3) If a complaint of a violation of any provision of this chapter is lodged against a member of the board of education, the chairperson (or the vice-chairperson if the complaint is lodged against the chairperson), director of schools, and board of education attorney shall examine the same to determine whether the complaint appears to have sufficient merit to warrant further consideration. If at least two (2) of those persons determine that the complaint warrants further consideration, the board of education shall consider the complaint and determine whether (a) the complaint has merit, (b) the complaint does not have merit, or (c) the complaint has sufficient merit to warrant further investigation. If the board of education determines that a complaint warrants further investigation, it shall authorize an investigation by the board of education attorney or another individual or entity chosen by the board of education.

(4) If a complaint of a violation of any provision of this chapter is lodged against a member of the board of directors of the Johnson City Power Board, the chairperson (or the vice-chairperson if the complaint is lodged against the chairperson), the general manager of the Johnson City Power Board, and the Johnson City Power Board's attorney shall examine the same to determine whether the complaint appears to have sufficient merit to warrant further consideration. If at least two (2) of those persons determine that the complaint warrants further consideration, the board of directors of the Johnson City Power Board shall consider the complaint and determine whether (a) the complaint has merit, (b) the complaint does not have merit, or (c) the complaint has sufficient merit to warrant further investigation. If the board of directors of the Johnson City Power Board determines that a complaint warrants further investigation, it shall authorize an investigation by its attorney or another individual or entity chosen by the board.

(5) If a complaint of a violation of any provision of this chapter is lodged against a member of the board of directors of the Johnson City Housing Authority, the chairperson (or the vice-chairperson if the complaint is lodged

against the chairperson), executive director of the Johnson City Housing Authority, and the Johnson City Housing Authority's attorney shall examine the same to determine whether the complaint appears to have sufficient merit to warrant further consideration. If at least two (2) of those persons determine that the complaint warrants further consideration, the board of directors of the Johnson City Housing Authority shall consider the complaint and determine whether (a) the complaint has merit, (b) the complaint does not have merit, or (c) the complaint has sufficient merit to warrant further investigation. If the board of directors of the Johnson City Housing Authority determines that a complaint warrants further investigation, it shall authorize an investigation by its attorney or another individual or entity chosen by the board.

(6) If a complaint of a violation of any provision of this chapter is lodged against an official appointed by the city commission (including members of municipal boards not specified above, but excluding the city manager), or against an employee appointed, hired by or working under the authority of the city manager, the city attorney shall examine the same to determine whether the complaint appears to have sufficient merit to warrant further investigation. If the city attorney determines that a complaint warrants further investigation, or if the city attorney otherwise acquires credible information indicating a violation, he or she may investigate the complaint and make recommendations for action to end or seek redress for any activity that, in the attorney's judgment, constitutes a violation of this code of ethics.

(7) If a complaint of violation of any provision of this chapter is lodged against the city manager, the mayor (or a member of the city commission designated by the mayor) and an outside attorney shall examine the same to determine whether the complaint appears to have sufficient merit to warrant further investigation and shall report their recommendations to the city commission.

(8) If a complaint of violation of any provision of this chapter is lodged against an employee appointed, hired by or working in connection with or under the authority of officials of the Johnson City Housing Authority, the Johnson City Power Board, the Department of Education of the City of Johnson City, or an employee of any other municipal board, the attorney for that board shall examine the same to determine whether the complaint appears to have sufficient merit to warrant further investigation. If such attorney determines that a complaint warrants further investigation, or if the attorney otherwise acquires credible information indicating a violation, he or she may investigate the complaint and make recommendations for action to end or seek redress for any activity that, in the attorney's judgment, constitutes a violation of this code of ethics. If the complaint is lodged against the chief executive or chief administrative officer hired by such board, the attorney for the board shall advise the city attorney of any investigation which he or she undertakes and the results of that investigation.

(9) The city attorney, or the attorney representing a municipal board, may request the hiring of another attorney, individual, or entity to act under this section when it appears he or she has or will have a conflict of interest in a particular matter.

(10) Complaints lodged under this section should be in writing and signed by the person or persons making the same.

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

(12) When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation, the violations shall be dealt with as a violation of the personnel provisions rather than as a violation of this code of ethics.

(13) Any attempt by an official or employee to improperly influence the consideration, investigation, or resolution of a complaint lodged under this section shall constitute a violation of this code of ethics. (as added by Ord. #4242-07, June 2007)

4-311. Violations. An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the municipality's charter or other applicable law, and in addition is subject to censure by the governing body. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (as added by Ord. #4242-07, June 2007)

TITLE 5

MUNICIPAL FINANCE AND TAXATION[1]

CHAPTER

CHAPTER 1

MISCELLANEOUS

SECTION

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[1]Charter references
Budget and appropriations: art. XVII.
City manager: art. IX.
Departments: art. XVIII.
Recorder as finance officer: art. XII.
Sinking fund: art. XVI.
State law references
Fiscal affairs: Tennessee Code Annotated, § 6-56-101, et seq.
Municipal Budget Law of 1982, Tennessee Code Annotated, § 6-56-201, et seq.

5-101. Purchasing policy. There is hereby adopted and incorporated by reference and made a part of this chapter, as fully and completely as those set forth verbatim herein, a purchasing policy and purchasing manual for the City of Johnson City, Tennessee, which are appended to Ordinance #3165,[1] as Exhibits "A" and "B," respectively, and which documents, as supplemented, shall constitute the purchasing policy of the City of Johnson City. (Ord. #3165, Nov. 1993)

5-102. Authority to make purchases and negotiate contracts.

(1) The city manager shall have the power to procure all supplies and to negotiate all contracts for departments under his control, including the fire and police departments. No contract negotiated by the city manager shall be binding upon the city until the same has been approved and signed by the mayor and countersigned by the recorder, and no contract covering a greater sum than two thousand dollars ($2,000.00) shall be binding upon the city until approved and confirmed by the board; provided further, that the city manager shall issue written orders, in duplicate, for all materials and supplies purchased by him, the original to be delivered to the person from whom the purchase is made.

(2) In accordance with section 45.8 of the Charter of the City of Johnson City, the city manager be and is hereby authorized to expend funds in his discretion without specific authorization of the board of commissioners, not to exceed the maximum sum of fifty thousand dollars ($50,000).

(3) The threshold over which public advertisement and sealed competitive bids or proposals are required shall be twenty-five thousand dollars ($25,000.00) for nonemergency, nonproprietary purchases. At least three (3) written quotations shall be required whenever possible for purchases costing between ten thousand dollars ($10,000.00) and twenty-five thousand dollars ($25,000.00). Purchases of like items shall be aggregated for purposes of the bid threshold. The city manager, as purchasing agent, or his designated purchasing director, are authorized to make purchases as specified herein pursuant to Tennessee Code Annotated, § 12-3-1212 and the charter of the City of Johnson

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[1]Ord. #3165, Nov. 1993, Exhibits "A" and "B" are available in the office of the city recorder.

City. (1985 Code, § 2-62, as amended by Ord. #3724, Nov. 1999, Ord. #4437-12, Feb. 2012, Ord. #4593-15, Nov. 2015, and Ord. #4707-19, Nov. 2019 ***Ch12_6-20-20***)

5-103. Financial reports. It shall be the duty of the city manager to render to the board of commissioners reports on the current fiscal condition of each city department, in such form and at such times as may be required by the board. (1985 Code, § 2-63)

5-104. Recorder to approve accounting methods. All departments or officers of the city charged with the collection or disbursement of money shall keep their books and accounts in such manner as shall be approved by the recorder. (1985 Code, § 2-80)

5-105. Duties of city treasurer generally. (1) It shall be the duty of the city treasurer to collect and receive all rents which may be due the city. He shall proceed forthwith to collect all accounts and bills which may be delivered to him for collection, and in any case in which he may be unable to obtain an immediate settlement of a bill or account, he shall report the same to the city attorney for collection.

(2) The city treasurer shall open a public property book, in which he shall enter each piece of property belonging to the city, properly indexed, and when a revaluation is made, shall credit or debit each piece of property with all changes in value.

(3) The city treasurer shall make up his account to the thirtieth day of June, inclusive, and the fiscal year shall begin on the first day of July of each year.[1] (1985 Code, § 2-81)

5-106. Treasurer to collect accounts and receive payments. It shall be the duty of the city manager and all officers of the city to deliver to the city treasurer, for collection, all bills and accounts against persons indebted to the city, and no head of department or officer of the city shall receive payment of any such bill or account. The receipt of the city treasurer shall be deemed the only sufficient and valid discharge of debts due the city; provided, however, that nothing contained in this section shall affect the collection of bills of the water and sewer department, or of the other bills or charges of officers of the city, in pursuance of the provisions of law. (1985 Code, § 2-82)

5-107. Cash receipts. Each employee authorized to receive cash for the city shall, at the time of receiving it, issue to the person paying, a receipt written in indelible pencil upon a printed receipt form furnished by the city recorder.

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[1]Charter reference
Fiscal year: § 83.

By the use of a carbon sheet an exact copy of such receipt shall be retained upon the sheet provided for that purpose, such receipts to remain in the bound book of receipt forms until the book is exhausted or until the duplicates are desired for checking the accounts, when all shall be turned over to the recorder, taking his receipt therefor. The following shall govern the preparation of receipt forms. The original, duplicate and, where a third is used, the triplicate forms shall be numbered consecutively by the printer. All receipt forms shall be made into bound books bound economically, with perforations on the originals except the forms provided for property tax, paving assessments, water consumers' bills and for any other class of revenue for which a subsidiary ledger or register, operated under a controlling account in the general ledger, is provided. In the case of receipt forms for collections of the latter classes, instead of the book forms, the receipts may be looseleaf, but numbered by the printer as provided above. All such looseleaf receipts shall be made in three (3) sections, separated by perforations, and shall be made up as follows: First section, office record of collection; second section, receipt for payer, printed in red; third section, notice to be mailed to payer when account is about to become payable. The first and third sections shall be printed in black. After detaching the "notice" portion, the two (2) remaining portions shall be filed, without separation, in a drawer under alphabetical indices until payment is made. In completing the receipt at the time of payment, the amount received, the date and the name of the collector shall be shown on the red portion, retaining an exact copy by the use of carbon. A serial number indicating the order of the payment of such items shall be endorsed upon both copies of all such receipts. The office record portions shall be retained until the accounts are audited, when they shall be turned over to the recorder for filing. Both the original and duplicate of all receipts, in either looseleaf or book form, which may be spoiled shall be marked "spoiled" and turned in to the recorder with the next report, noting same upon the report. (1985 Code, § 2-83)

5-108. <u>City officers to turn money over to treasurer</u>. All city officers who, in their official capacity, receive any money on behalf of the city, shall forthwith pay the same to the treasurer, accompanied by a statement of the purposes for which the same was received. (1985 Code, § 2-84)

5-109. <u>Daily reports of collections</u>. (1) Each department or employee authorized to collect cash for the city shall render a daily report of collections to the recorder. Such report forms shall be furnished in duplicate sheets, numbered by the printer, the original to be separated by perforations and filed with the recorder, the duplicate to be retained by the maker, upon which duplicate the recorder shall acknowledge receipt of the amount remitted, and shall show such receipt by the number thereon, in making up his own daily report.

(2) Such report blanks shall be furnished by the recorder, in book form. Collectors shall show thereon each item collected, giving the class of revenue, the receipt number, the name of the payer and the amount collected.

(3) The recorder shall prepare and file a daily report along the same lines.

(4) At the discretion of the recorder-treasurer, any department whose monthly collections average one thousand dollars ($1,000.00) or more may be required by the officer to whom such department reports collections, to make daily deposits directly in one (1) of the designated depositories, turning in with his daily report to the recorder-treasurer, a duplicate deposit ticket, initialed by the receiving teller of such depository, evidencing the receipt of the deposit. (1985 Code, § 2-85)

5-110. Delinquent accounts. (1) The city attorney shall take such steps as he deems necessary to collect delinquent accounts certified as such by the city manager.

(2) All delinquent tax accounts on real estate and public utilities shall be certified in accordance with the city charter.[1] (1985 Code, § 2-86)

5-111. Depositories designated. The board of commissioners does hereby designate the Hamilton Bank, the Commerce Union Bank, the First Tennessee Bank, the First American National Bank--Eastern and Tri City Bank and Trust Company, with a branch office in the city, as official depositories for any and all funds which are now or which hereafter come into the hands of the recorder-treasurer by virtue of his office. (1985 Code, § 2-87)

5-112. Bank deposits. (1) The following rules shall govern the making of bank deposits to the credit of the city; deposit tickets shall be made in triplicate, one (1) copy each for the bank, the city treasurer and the department making the deposit. Deposits shall be made daily covering collections for the previous day. On deposit tickets, each check shall be listed separately, showing the name of the drawer. All checks received shall be deposited, never cashed. Endorsements of checks shall be substantially in the form shown below, preferably by rubber stamp:

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[1]Charter references

Collection of delinquent taxes and assessments: § 55, et seq.

"For deposit in _____ Bank
To the credit of the City of Johnson City, Tennessee,
Treasurer, _____."

All deposits shall be made in the name of the "City of Johnson City, Tennessee."

(2) Employees are forbidden to pay out cash on checks presented, except vouchers or payroll checks of the city's own issue. Any check returned by a bank, and charged to the city's account, shall be handled by the treasurer with the department accepting the check. The receipt given in exchange for a check dishonored by the bank shall be canceled automatically, and the collection of the account shall be proceeded with as though no check had been tendered. (1985 Code, § 2-88)

5-113. Annual audit. At the close of each fiscal year the board of commissioners shall within a reasonable time cause an adequate audit to be made for the preceding year, and for this purpose it may employ a certified public accountant, or firm of certified public accountants; or the board of commissioners may employ a certified public accountant or firm of certified public accountants to make a continuing audit, and a final report at the end of the fiscal year. Such audits shall cover the accounts of each officer and employee whose duties embrace the receipt or disbursement of cash for all departments of the city, and the scope of such audits shall be set forth in audit specifications prescribed by the board.[1] (1985 Code, § 2-89)

5-114. Disbursements--generally. (1) Cash disbursements shall be made by voucher drawn by the city recorder upon the city treasury, after the account has been ordered paid by the board of commissioners. This shall not, however, diminish the authority vested in the city recorder; providing, that the city manager's weekly labor payrolls, the salaries of the city officials elected by the voters and by the board of commissioners, the interest coupons matured and presented for redemption, freight settlements, postage and similar items may, at the discretion of the city manager and recorder, be covered by vouchers issued as required, and such action reported in detail to the board at the first regular meeting after the end of that month, and asking for the adoption of a resolution ratifying such action.

(2) At the close of the month, the city manager shall prepare a summary of account of each person furnishing material or services upon his order or upon a contract authorized by the board of commissioners, for the month. Such summary shall show the invoice date, the city manager's order

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[1]State law reference
Fiscal affairs: Tennessee Code Annotated, § 6-56-101 et seq.

number and the amount of invoice with the month's total, and shall have attached thereto the original invoices rendered by the creditor. Freight allowances and discounts shall be deducted first. At the first regular meeting of the board in the month following that covered by the summaries, all such bills shall be presented to the board for approval. Any accounts incurred by the recorder, under the authority given him by the charter, this code and other ordinances, shall be similarly handled, after approval of the recorder is endorsed thereon.

(3) In case of any account not being covered by an invoice from the creditor, the city manager or the recorder shall show upon his summary a full description of the account.

(4) The vouchers used for disbursements shall consist of three (3) portions: Check portion, or cash voucher, original; audit portion for recorder, duplicate; advice sheet for treasurer, triplicate (while the recorder and treasurer are one and the same person the use of the triplicate is unnecessary). Each portion shall be numbered by the printer. The check portion shall be made upon safety ruled paper. (1985 Code, § 2-101)

5-115. Appropriations for payment of officers and employees. All officers and persons in the service of the city shall be paid from the appropriation for the department in which they are employed. (1985 Code, § 2-102)

5-116. Labor payrolls. Weekly labor payrolls shall be prepared under the supervision of the city manager upon such forms and in such manner as may be approved by the board of commissioners. (1985 Code, § 2-103)

5-117. Purchasing--informal bidding. The purchasing agent of the city in making purchases in excess of one hundred dollars ($100.00) and under two thousand dollars ($2,000.00), shall buy merchandise in a competitive manner, that is, by calling for prices or bids either by phone or on the regular bid forms now being used by the city, from merchants and business houses within the city and outside the city, and awarding the business to the low bidder after both quality and price have been considered. The purchasing agent shall record such competitive prices on the requisition of such material as a matter of record. (1985 Code, § 2-104)

5-118. Purchasing--when public advertising, etc., required. No purchase exceeding two thousand dollars ($2,000.00) shall be made by the purchasing agent unless bids shall have been requested through public advertisement and award made to the lowest responsible bidder, with price and quality of merchandise considered. (1985 Code, § 2-105)

5-119. Notes payable. (1) Loans which the board of commissioners authorizes its officers to procure, and renewals of these already existing, shall be evidenced by notes executed in the name of the city by the mayor, attested by the recorder. All notes shall be numbered consecutively, and a renewal shall show upon its faces "City Note No. ___." Those notes authorized to be further secured by a pledge of bonds or other collateral shall show in the body thereof a full description of such pledges. The recorder shall retain a carbon copy of each note given in the city's name, which shall be attached, after registration in the city's bill book, to the deposit ticket evidencing the banking of the proceeds, in the case of new loans, and to the journal voucher carrying the entry recording the renewal in the case of renewal of loans. Deposit tickets shall show the full amount of notes cashed, and the discount being covered by a voucher.

(2) A note in the hands of an innocent purchaser being good for the face value thereof, it shall be the duty of the recorder carefully to endorse upon the back of a note any partial payments made thereon. For the same reason, the practice of renewing notes by placing renewal endorsements, upon the one matured, is forbidden, as a failure to endorse the payment of interest upon a note renewed by endorsement might, in the case of loans procured from individuals not maintaining an accounting system, subject the city to loss by having to pay such interest twice. (1985 Code, § 2-106)

5-120. City bonds--in treasury. (1) Upon the passage of an ordinance authorizing the issuance of bonds, the recorder shall place an order for their preparation in conformity with the provisions of the ordinance. Immediately upon their receipt the mayor and recorder shall sign and seal them in the presence of an officer of one of the local national banks, and shall execute a certificate showing that they, in their official capacities, on a given date, executed certain bonds, describing them by name of issue and numbers of bonds, acknowledging execution of such certificate either before the bank officer witnessing the execution of the bonds or before a notary public, as preferred by the purchasers of the bonds. The bonds, with such certificate, shall then be turned over to the city treasurer whose receipt shall be taken unless he is the same person as the recorder, and shall be placed by him in a safe deposit vault pending further directions of the board of commissioners.

(2) The recorder shall attach such receipt to a journal voucher carrying an entry: "Bonds in Treasury to Bonds Payable." When bonds are delivered, the treasurer shall record the individual numbers of the bonds delivered and the value of each and of the interest accrued thereon at the date of delivery.

(3) If bonds are sold for cash, the general cash book shall show a credit to the account of "Bonds in Treasury," and to the proper interest account if there is interest accrued at the date of delivery.

(4) If bonds are delivered on account of work done under constract, such transactions shall be recorded by a journal entry debiting the contractor and crediting bonds in the treasury and the appropriate interest account.

(5) A register, showing the details of each issue of bonds, deliveries thereof and of redemptions, shall be kept by the recorder.[1] (1985 Code, § 2-107)

5-121. Purchasing--hypothecation. (1) Upon the adoption of a resolution by the board of commissioners authorizing the mayor and recorder to pledge certain of the city's bonds then in the treasury, as collateral security to notes authorized, the mayor and recorder shall take duplicate receipts of the pledgee, fully describing the bonds pledged, one copy of which shall be attached to the journal voucher carrying the entry, "Bonds Hypothecated to Bonds in Treasury."

(2) At the time of delivery of such bonds, and thereafter as coupons reach maturity, all matured interest coupons shall be detached and endorsed, "Canceled, Not Purchased." (1985 Code, § 2-108)

5-122. Procedure for paying contractors on estimates of city engineer. (1) The monthly estimate sheets of the city engineer, showing amounts due contractors by the city, shall be attached to the audit voucher covering payment, when payment is made in cash. When payment is made in bonds, or deferred until the completion of the work, the estimate sheet shall be attached to the journal voucher carrying an entry: "Asset Account or Expense Account to Contractor." When settlement with such contractor is made, the contractor's account shall be debited, crediting cash or bonds in treasury (and the proper interest fund if there is interest accrued on the bonds delivered).

(2) The practice of passing out bonds to contractors in payment for work covered by the engineer's estimates without a record of such transactions appearing upon the books of account is positively forbidden. (1985 Code, § 2-109)

5-123. Preparation of annual departmental budgets. Every board or officer of the city in charge of a department shall, annually, on or before April tenth, send to the city manager an estimate, in detail, of the appropriation which will be needed to meet the expenditures to be incurred by such board or officer during the succeeding fiscal year, and also an estimate of all income to be received from any source by such board or officer during such year. [2] (1985 Code, § 2-110)

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[1]Charter reference
City bonds: art. XV.

[2]Charter reference
Budget and appropriations: art. XVII.

CHAPTER 2

TAXATION[1]

SECTION

5-201. Basis; exemptions generally. All property, real, personal and mixed, subject to the state and county taxes, when the same shall have been duly assessed for taxation as now or as may be provided by law, shall be the basis upon which property shall be taxed and taxes collected by the city for municipal purposes, as provided in this chapter, but all property or persons exempted from taxation by the general laws of the state, and all property belonging to the city, shall be exempt from taxation by the city.[2] (1985 Code, § 22-1)

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[1]Charter references
Recorder and taxation: art. XI.
Taxation and revenue: art. XIII.
State law references
County boards of equalization: Tennessee Code Annotated, § 67-5-1401, et seq.
Property taxes: Tennessee Code Annotated, § 67-5-101, et seq.
Real property tax deferral: Tennessee Code Annotated, § 7-64-101, et seq.
Taxing powers generally: Tennessee Code Annotated, § 6-55-101, et seq.

[2]State law reference
Tax exemptions: Tennessee Code Annotated, § 67-5-201, et seq.

5-202. Due date. September first of each year shall be the due and payable date of the current year's taxes.[1] (1985 Code, § 22-2)

5-203. [Repealed.] (1985 Code, § 22-3, as repealed by Ord. #4501-13, Aug. 2013)

5-204. Penalty for late payment. A penalty of one and one-half (1 ½) percent upon all taxes remaining unpaid after December thirty-first shall be imposed and collected by the city as authorized in the city charter for the month of January; and an additional penalty of one and one-half (1 ½) percent shall be added for each month thereafter until paid; and interest at one (1) percent per annum above the prime rate in the city, as described in the city charter, shall be imposed and collected by the city from January first year on all delinquent taxes.[2] (1985 Code, § 22-4)

5-205. Back assessments or reassessments. Back assessment or reassessment of property shall be made when authorized and in the same manner prescribed by Tennessee Code Annotated, § 67-1-1001 et seq. The city recorder is given the duties which said law imposes upon county court clerks, county trustees, the county executives or chairmen of county courts, and collectors of taxes. The city attorney is given the duties which said law imposes upon county attorneys. (1985 Code, § 22-5)

5-206. Telephone or telegraph pole tax. (1) Each person owning or maintaining a telephone or telegraph pole located on or along the public streets of the city shall pay a tax of twenty-five cents ($.25) on each telephone or telegraph pole so located.

(2) Each person owning or maintaining telephone or telegraph poles located on or along the public streets of the city shall notify, in writing, the recorder of the city when an additional pole is erected and when a pole is dispensed with.

(3) The proceeds derived from the enforcement of this section shall be for the use and benefit of the city and shall go into the general fund of the city.

(4) The tax levied by this section shall be payable in advance on the first day of August of each year; and if not paid within thirty (30) days from August first, of the year in which such tax became due and payable, a distress

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[1]Charter reference
Due date of taxes: §§ 51, 54.

[2]Charter reference
Penalty for delinquency: § 53.

warrant shall be issued by the city recorder to enforce the collection of such taxes.

(5) The tax levied in this section shall not apply to mutual home telephone companies not operated for profit. (1985 Code, § 22-6)

5-207. Central business improvement district. (1) Created; boundaries. Pursuant to the powers granted by Tennessee Code Annotated, title 7, chapter 84, there is hereby created for a period of five (5) years the Johnson City Central Business Improvement District, to contain and include all of the properties within the area herein described: Beginning at a point in the centerline of East Market Street as it intersects with the centerline of Colonial Way; thence in a southeasterly direction along the centerline of Colonial Way a distance of 580.0 feet to a point in the centerline of State of Franklin Road; thence in a southwesterly direction along the centerline of State of Franklin Road a distance of 1312.5 feet to a point in the centerline of Wilson Avenue extended; thence in a westerly direction along the centerline of Wilson Avenue a distance of 922.0 feet to a point in the centerline of Boone Street; thence in a northerly direction along the centerline of Boone Street a distance of 718.0 feet to a point in the centerline of an alley extended from the Little and Horner Subdivision; thence in an easterly direction along the centerline of said alley a distance of 348.5 feet to a point in the centerline of McClure Street; thence in an easterly direction a distance of 12.5 feet to the northwesterly corner of N. Taubman; said point being in the easterly right-of-way line of McClure Street and a distance of 108.0 feet from its intersection with the northerly right-of-way line of West Market Street; thence in an easterly direction along the northerly lines of N. Taubman, and L. Farmer, a distance of 186.1 feet to a point in the westerly right-of-way line of Commerce Street; thence in an easterly direction across the right-of-way line of Commerce Street a distance of 41.0 feet to a point in the easterly right-of-way line of Commerce Street, said point also being the northwesterly corner of the R. Carter et al. property; thence in an easterly direction along the northerly line of the R. Carter et al. property a distance of 125.0 feet to a point, said point being the northeasterly corner of the R. Carter et al. property; thence in an easterly direction along the northerly line of R. Carter et al. property extended as distance of 168.5 feet to a point in the centerline of East Market Street; thence in a northeasterly direction along the centerline of East Market Street a distance of 912.0 feet to the point of beginning. (1985 Code, § 22-7)

5-208. Purpose. The purpose of the Johnson City Central Business Improvement District shall be the financing of a central business district management organization, either "in-house" or a professional consultant, to manage, coordinate and improve the commercial operations in the central business district, to recruit new business interests, to fill vacant buildings, to improve the commercial mix within the central business district, to encourage

building improvements and new construction and to support such other public or private improvements as would better the commercial viability and vitality of the Johnson City Central Business District. The estimated cost of such operation is fifty thousand dollars ($50,000.00) per year. (1985 Code, § 22-8)

5-209. Tax levy authorized. It is hereby authorized that all properties, except those exempt from taxation, contained within the Johnson City Central Business Improvement District shall be levied an additional assessment sufficient in amount to raise fifty thousand dollars ($50,000.00) per year for five (5) years or for a shorter period of time should the district be properly dissolved before five (5) years. In no case shall the assessment on any property for the life of the district exceed fifteen (15) percent of the assessed value of the property and the improvements thereon. Said assessment shall be collected at least annually but may be collected as often as quarterly. (1985 Code, § 22-9)

5-210. Board of assessment created; members. There is hereby created the Johnson City Central Business Improvement District board of assessment commissioners to consist of five (5) citizens of the city, none of whom shall be interested in any property contained within the described district. Members of the board shall be appointed by the board of commissioners, shall be at least thirty (30) years of age and shall serve without compensation. It shall be the duty of this board to determine the amount of assessment on each property and to ascertain and award damages and compensation to property owners. (1985 Code, § 22-10)

CHAPTER 3

HOTEL/MOTEL TRANSIENT OCCUPANCY PRIVILEGE TAX[1]

SECTION

5-301. Definitions. As used in this chapter, unless the context otherwise requires:

(1) "Consideration" means the consideration charged, whether or not received, for the occupancy in a hotel and/or short-term rental valued in money whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits, property and services of any kind or nature without any deduction therefrom whatsoever. Nothing in this definition shall be construed to imply that consideration is charged when the space provided to the person is complimentary from the operator and no consideration is charged to or received from any person.

(2) "Hotel" means any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any inn, tourist camp, tourist court, tourist cabin, motel or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration.

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

(4) "Operator" means the person operating the hotel and/or short-term rental whether as owner, lessee or otherwise.

(5) "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint-stock company, corporation, estate, trust, receiver, trustee, syndicate or any other group or combination acting as a unit.

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[1]State law reference

Hotel occupancy tax: Tennessee Code Annotated, § 67-4-1401, et seq.

(6) "Short-Term Rental Property (STRP) means a residential dwelling unit that is used and/or advertised for transient occupancy. The residence can be owner-occupied, on a lot with an owner-occupied residence, or not owner-occupied. A rental that lasts between one (1) and eighty-nine (89) days is considered short term.

(7) "Transient" means any person who exercises occupancy or is entitled to occupancy for any rooms, lodgings or accommodations in a hotel and/or short-term rental for a period of fewer than ninety (90) continuous days. (1985 Code, § 22-27, as amended by Ord. #4715-19, Dec. 2019 ***Ch12_6-20-20***)

5-302. Levied. There is hereby levied, assessed, and imposed and shall be paid and collected a privilege tax upon the privilege of occupancy in any hotel and/or short-term rental of each transient in an amount equal to seven percent (7%) of the consideration charged by the operator. Of this seven percent (7%) privilege tax, two percent (2%) received by the City of Johnson City shall be used solely for tourism. Such tax is a privilege tax upon the transient occupying such room and is to be collected as provided by this chapter. (Ord. #2823, June 1989, as replaced by Ord. #4580-15, June 2015, and amended by Ord. #4715-19, Dec. 2019 ***Ch12_6-20-20***)

5-303. Collected by operator; refund. (1) The tax levied in this chapter shall be added by each operator to each invoice prepared by the operator for the occupancy in his hotel and/or short-term rental and shall be given directly or transmitted to the transient and shall be collected by such operator from the transient and remitted to the city.

(2) When a person has maintained occupancy for ninety (90) continuous days, he shall receive from the operator a refund or credit for the tax previously collected from or charged to him, and the operator shall receive credit for the amount of such tax if previously paid or reported to this city. (1985 Code, § 22-29, as amended by Ord. #4715-19, Dec. 2019 ***Ch12_6-20-20***)

5-304. Tax advertised as being absorbed, etc. No operator of a hotel and/or short-term rental shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator or that it will not be added to the rent, or that if added, any part will be refunded. (1985 Code, § 22-30, as amended by Ord. #4715-19, Dec. 2019 ***Ch12_6-20-20***)

5-305. Remittance of tax to city. The tax levied in this chapter shall be remitted by all operators who lease, rent or charge for occupancy within a hotel and/or short-term rental in the city to the city treasurer, such tax to be remitted to such officer no later than the twentieth day of each month for the preceding month. The operator is required to collect the tax from the transient at the time of the presentation of the invoice for such occupancy, whether prior

to occupancy or after occupancy as may be the custom of the operator, and if credit is granted by the operator to the transient, then the obligation to the city for such tax shall be that of the operator. (1985 Code, § 22-31, as amended by Ord. #4715-19, Dec. 2019 ***Ch12_6-20-20***)

5-306. Delinquency. Taxes under this chapter, collected by an operator, which are not remitted to the city treasurer on or before the due dates are delinquent. An operator shall be liable for interest on such delinquent taxes from the due date at the rate of twelve (12) percent per annum, and in addition, a penalty of one (1) percent for each month or fraction thereof such taxes are delinquent. Such interest and penalty shall become a part of the tax. Each occurrence of willful refusal of an operator to collect or remit the tax or willful refusal of an operator to collect or remit the tax or willful refusal of a transient to pay the tax imposed is declared to be unlawful and shall be punishable upon conviction by a fine not in excess of fifty dollars ($50.00). (1985 Code, § 22-32)

5-307. Collection; disposition of funds. The city treasurer is hereby charged with the duty of collection of the tax levied in this chapter and shall place the proceeds of such tax in the municipal general fund. (1985 Code, § 22-33)

5-308. Operator's and treasurer's responsibilities. A monthly tax return under oath shall be filed with the city treasurer by the operator with such number of copies thereof as the city treasurer may reasonably require for the collection of such tax. The report of the operator shall include such facts and information as may be deemed reasonable for the verification of the tax due. The form of such report shall be developed by the city treasurer and approved by the board of commissioners prior to use. The city treasurer shall audit each operator in the city at least once per year and shall report on the audits made on a quarterly basis to the board of commissioners. (1985 Code, § 22-34)

5-309. Powers of treasurer; taxpayer's remedies. (1) The city treasurer, in administering and enforcing the provisions of this chapter, shall have those powers and duties with respect to collecting taxes as are provided in Tennessee Code Annotated, title 67, or otherwise provided by law for county clerks.

(2) Upon any claim of illegal assessment and collection, the taxpayer shall have the remedy provided in Tennessee Code Annotated, § 67-1-901 et seq., it being the intent of this chapter that the provisions of law which apply to the recovery of state taxes illegally assessed and collected shall also apply to the tax levied under the authority of this chapter. The city treasurer shall also possess those powers and duties provided in Tennessee Code Annotated, § 67-1-707(b), for county clerks with respect to the adjustment and settlement with taxpayers of all errors of taxes collected by him under authority of this

chapter and to direct the refunding of same. Notice of any tax paid under protest shall be given to the city treasurer and any suit may be brought for recovery of such tax paid under protest by filing the same against the city recorder-treasurer. (1985 Code, § 22-35)

5-310. Records preserved. It shall be the duty of every operator liable for the collection and payment to the city of the tax levied by this chapter to keep and preserve for a period of three (3) years all records as may be necessary to determine the amount of such tax as he may have been liable for the collection of and payment to this city, which records the city treasurer shall have right to inspect at all reasonable times. (1985 Code, § 22-36)

TITLE 6

LAW ENFORCEMENT

CHAPTER

CHAPTER 1

POLICE DEPARTMENT[1]

SECTION

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[1]Charter references
Chief of police:§ 39.
Civil service commission: art. XXVI.
Departments: art. XVIII.
Police force: art. XIX.
Supervision of chief of police: § 45.3.

State law references
Employment and training of police officers: Tennessee Code Annotated, § 38-8-101, et seq.
Municipal police authority: Tennessee Code Annotated, § 6-54-301, et seq.

Municipal code reference
Municipal offenses: title 11.
Traffic citations, etc.: title 15, chapter 7.

6-101. **Supervision**. The police department shall be under the control of the city manager.[1] (Ord. #3068, June 1992)

6-102. **Composition**. The police department shall consist of one (1) chief of police and as many assistant policemen as the board of commissioners may deem necessary to preserve the peace and good order, and to enforce this code or other ordinances of the city. (1985 Code, § 17-2)

6-103. **Chief--powers generally**. The chief of police shall have general control over the entire police force, under the general supervision of the city manager, with authority to assign the several members thereof special or general duties within the scope of their employment and to enforce his orders and directions to the extent of suspending any member of the force disregarding same or for any conduct unbecoming an officer, and such suspension shall remain in force and effect until the next regular meeting of the board of commissioners. All such suspensions under this section and the reasons therefor shall be reported in writing, by the chief of police, to the city manager. (1985 Code, § 17-3)

6-104. **Chief--duties generally**. The chief of police shall devote his entire time to the maintenance and preservation of the peace, order and cleanliness of the city. He shall aid, to the fullest extent of his ability, in the enforcement of special laws relating to the city, this code or other ordinances thereof, and he shall enforce all orders of the city manager relating to the business and duties of his department. He shall take notice of unlawful obstructions and nuisances and defects in the streets and public places of the city, and remove the same, or take proper action in relation thereto. He shall see that proper guards and lights are placed at obstructions in the streets, throughout the day and night. He shall have general charge of the lockup and the prisoners therein. He may establish rules for the government of the police department, subject to the approval of the city manager. He shall keep an account of the duties performed by each member and shall note all absentees from duty and the cause of same; he shall report all violations of the rules and regulations to the city manager, together with the names of witnesses to the facts, that the charges may be investigated. He shall render a monthly report to the board of commissioners showing in detail the workings of his department. (1985 Code, § 17-4)

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[1]Municipal code reference
City manager; powers: § 1-501.

6-105. Chief--attend meetings of board. The chief or police, or in his absence one (1) of the assistant policemen, shall be present at all meetings of the board of commissioners. (1985 Code, § 17-5)

6-106. Calling for assistance. Any member of the police force is hereby empowered to call to his assistance as many of the inhabitants of the city as may be necessary to aid him in making arrests and in preventing or quelling any riot, unlawful assembly or breach of peace; and all persons so called shall be subject to the orders of the policeman, while on the duty for which they were called. It shall be unlawful for any person to refuse or fail to obey the orders of such policeman, when so called by him. (1985 Code, § 17-6)

6-107. Duties. It shall be the duty of the police to prevent crime; detect and arrest offenders; suppress riots; protect the rights of persons and property; guard the public health; see that nuisances are removed; restrain disorderly, bawdy and gambling houses; assist, advise and protect strangers and travelers on the streets or at railroad stations; enforce all the laws relating to the suppression of crime and the public health or to disorderly persons; to evaluate all and every manner of process, in behalf of the city, upon persons or property; to arrest, upon view, any person who shall be guilty of a breach of this code or other ordinances of the city, or a crime against the laws of the state; to serve any process issued out of the city court, or any process in criminal matters, issued by any justice of the peace, within the city or any and all processes issued by any court in the county, in any proceedings instituted for the enforcement of this code or other ordinance, or punishment for violations thereof, or for the collection of any fines and forfeitures which may be incurred under this code or other ordinances of the city; and do all within their power to enforce the laws and whatever else may be required of them by the board of commissioners and by law. All fees for services rendered by any policeman shall be remitted to the city treasury. (1985 Code, § 17-7)

6-108. Uniform, etc. The police, when on duty, shall wear such uniform, hat and badge as the board of commissioners shall determine. (1985 Code, § 17-8)

6-109. Conduct of members generally. Each member of the police force shall be protected in his right to entertain his own political opinions, but all are required to refrain from taking part in any convention or promoting the election of any public officer, or electioneering for, or against, any candidate for public office, while on duty or in the pay of the city. They shall carefully avoid at all times and in all places participation in any political discussion of any character that may lead to recrimination and the use of harsh or intemperate language. (1985 Code, § 17-9)

6-110. Charges against members. Charges against any member of the police force must be made to the city manager, in writing, verified by the oath of the complainant, except that charges made by any member of the board of commissioners, the city manager or the chief of police need not be verified. When charges are made, as provided in this section, it shall be the duty of the city manager to investigate such charges, referring those charges which have merit to the recorder, who shall issue summons to the charged party to appear before the board of commissioners. The charges shall be tried and determined by the board, a majority of same being necessary for a conviction. If convicted, the policeman may be suspended or discharged as the board may determine. The recorder shall issue subpoenas for, and the chief of police or some member of the police force shall summon, such witnesses as may be asked for by either party. The accused may be represented by counsel. The city manager, if in his opinion the public welfare demands it, or if he believes there is reasonable ground to sustain the charges made, may suspend the officer until the matter has been heard and determined by the board.[1] (1985 Code, § 17-10)

6-111. Grounds for suspension or discharge. Any member of the police force against whom any of the following charges are sustained shall be suspended or discharged:

(1) An act of insubordination or disrespect toward a superior officer;

(2) An act or acts of suppression or tyranny over those under his control;

(3) Neglect of duty;

(4) Violation of the rules governing the police force;

(5) Absence without leave;

(6) Immoral conduct, drunkenness, gambling or conduct unbecoming an officer;

(7) Any legal offense;

(8) Any conduct injurious to the peace or welfare of the public;

(9) Incapacity, mental or physical. (1985 Code, § 17-11)

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[1]Charter references

Hearings upon termination: § 159.

Termination, suspension, etc., of officers: § 157

6-112. Stolen, lost, etc., property.[1] Property coming into the possession of a policeman which he supposes to be stolen or lost, and all property taken from persons under arrest, shall be deposited in such place as the chief of police shall designate. (1985 Code, § 17-12)

6-113. Resisting or obstructing officer. No person shall resist or obstruct an officer of the city, by force or threats, in the discharge of his duty.[2] (1985 Code, § 17-13)

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[1]Ordinance #3673, April 1999, designates funds received from the disposition of forfeited property pursuant to Tennessee Code Annotated, § 39-11-101, et seq., for the use of law enforcement.

[2]State law reference

Resistance to officer: Tennessee Code Annotated, § 40-7-108.

CHAPTER 2

ARREST[1]

SECTION

6-201. Generally. (1) Police officers shall make arrests without using boisterous language, shall treat all persons humanely, shall avoid all violence in making arrests, unless absolutely necessary and shall not use their office to oppress or annoy any person.

(2) Any member of the police corps of the city may arrest a person:

(a) Whenever he shall have in his possession a warrant duly issued by the city judge;

(b) For a public offense committed or a breach of the peace threatened in his presence;

(c) When the person has committed a felony, though not in his presence;

(d) When a felony has in fact been committed, and he has reasonable cause for believing the person arrested to have committed it;

(e) On a charge made, upon reasonable cause, of the commission of a felony by the person arrested;

(f) Who is attempting to commit suicide; or

(g) At the scene of a traffic accident who is the driver of a vehicle involved in such accident when based on personal investigation the officer has probable cause to believe that such person has committed an offense under the provisions of Tennessee Code Annotated, chapters 8 and 10 of title 55. The provisions of this subsection shall not apply to traffic accidents in which no personal injury occurs or property damage is less than one thousand dollars ($1,000.00) unless the officer has probable cause to believe that the driver of such vehicle has committed an offense under Tennessee Code Annotated, § 55-10-401.

(3) In making arrests the policeman shall be clothed with the powers and governed by the restrictions of the state officers in like cases. (1985 Code, § 17-30)

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[1]State law reference

Arrest: Tennessee Code Annotated, § 40-7-101, et seq.

6-202. Breaking in. To make arrests either with or without a warrant, the officer may break open any inner or outer door or a window of a dwelling house or other building, if after notice of his official authority and purpose, he is refused admittance. (1985 Code, § 17-31)

6-203. Summoning bystanders as witnesses. Whenever an arrest has been made by any city officer, it shall be lawful for him to summon any of the bystanders as witnesses, and such summons shall be binding as though made by virtue of a subpoena issued by competent authority. (1985 Code, § 17-32)

6-204. Procedure for bringing arrested person to trial. When arrests have been made the prisoner shall be taken before the city court for trial at its next session, except in cases where the prisoner is not in condition to be tried. When for the safekeeping of the party arrested, or for any sufficient reason imprisonment until trial is necessary, the prisoner shall be committed to the city lockup, unless he gives proper bond for his appearance at court. Upon his appearance, and upon any proper and legal showing, the city judge may continue his cause at the request of the plaintiff or defendant, but not for more than three (3) days without his consent, and may require bond to be given for his appearance, and in default of same, may commit him to the city lockup. (1985 Code, § 17-33)

TITLE 7

FIRE PROTECTION AND PREVENTION[1]

CHAPTER

CHAPTER 1

FIRE PREVENTION AND PROTECTION

SECTION

7-101. Composition of fire department. The fire department shall consist of such fire, hose and hook-and-ladder companies as the board of commissioners may from time to time determine and of such drivers and other employees as the need of the department requires. (1985 Code, § 10-1)

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[1]Charter references
Appointment of fire chief: § 39.
Civil service commission: art. XXVI.
Departments: art. XVIII.
Fire bureau: art. XX.
Supervision of fire chief: § 45.3.
State law references
Fire fighting training and standards: Tennessee Code Annotated, § 4-24-101, et seq.
Fire prevention and investigation: Tennessee Code Annotated, § 68-102-101, et seq.
Muncipal code reference
Release of hazardous materials: title 11, chapter 7.

7-102. Bureau of fire prevention--created. A bureau of fire prevention is hereby created which shall operate under the chief of the fire department, subject to the control and direction of the board of commissioners. (1985 Code, § 10-2)

7-103. Bureau of fire prevention--powers and duties of chief generally. The chief of the fire department is hereby declared to be chief of the bureau of fire prevention and he shall do, or cause to be done by any designated deputy, all things required under the rules and regulations of the fire prevention code, adopted by § 7-201; to enforce the rules and orders of the state department of labor, relating to prevention of fires; to inspect or cause to be inspected, for life and fire hazards, all properties within the city and to issue and enforce the necessary orders for the abatement, removal or safeguarding of same; to issue all permits and collect, or cause to be collected, all fees that are required by such code. For the performance of his duties he is hereby vested with police powers and with the right of entry to any building or premises, at all reasonable hours, in the performance of his duties. (1985 Code, § 10-3)

7-104. Duties of police in event of fire. When an alarm of fire is sounded, it shall be the duty of at least one (1) policeman to repair as speedily as possible to the scene of the fire, to preserve the order, to prevent persons from interfering with the firemen and to protect property. (1985 Code, § 10-4)

7-105. Right-of-way of fire engines, etc. It shall be the duty of all persons upon the streets when a fire engine, hook-and-ladder truck or hose cart comes in sight, after a fire alarm has sounded, to give immediate right-of-way to such fire apparatus.[1] (1985 Code, § 10-5)

7-106. Assistance at fire. It shall be the duty of any person, when so summoned for that purpose by the acting chief of the fire department, to render all the assistance in his power to extinguish or to stay the progress of a fire, and to observe all orders given by the officers of the fire department while on such duty. (1985 Code, § 10-6)

7-107. Interfering with fire department. No person shall interfere in any manner with the operation of the fire department at a fire. (1985 Code, § 10-7)

7-108. Interfering with fireplugs. No person shall interfere or tamper with the fireplugs in any way whatsoever, except a member of the fire department, or persons authorized to repair them. (1985 Code, § 10-8)

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[1]State law reference

Operation of vehicles and streetcars upon approach of authorized emergency vehicles: Tennessee Code Annotated, § 55-8-132.

7-109. **<u>False alarm</u>**. No person shall knowingly make, or cause to be made, any false alarm of fire. (1985 Code, § 10-9)

7-110. **<u>Fire alarm control panel requirements</u>.** A fire alarm control panel is comprised of the controls, relays, switches, and associated circuits necessary to furnish power to a fire alarm system, receive signals from fire alarm devices and transmit them to indicating devices and accessary equipment.

(1) All fire alarm control panels shall have fire alarm silence capability.

(2) No person shall knowingly reset an active fire alarm control panel, in any way whatsoever, prior to a member of the fire department arriving and reviewing the cause of the activation. Reset shall not include silencing the fire alarm system.

(3) Any instance where emergency responders respond and it is determined the fire alarm control panel has been reset, so as to prevent responders from determining the initial point or location of activation, is considered a violation of this chapter. Violations may be subject to a fine not to exceed fifty dollars ($50.00). Fire alarm control panels may be silenced without violation. (as added by Ord. #4781-21, Sept. 2021 ***Ch14_06-16-22***)

CHAPTER 2

FIRE PROTECTION CODE[1]

SECTION

7-201. Adopted. There are hereby adopted and incorporated by reference and made a part of this chapter, as fully and completely as though copied at length herein, all volumes of the 1998 edition of the National Fire Prevention Fire Codes, as well as the standard fire prevention code, 1997 edition, as published by the Southern Building Codes Congress International, and all supplements to either of said codes as are now or may hereafter be published; and which codes collectively, as supplemented, shall constitute the Fire Protection Code of this city. In the event of a conflict between the provisions of the aforementioned codes, the stricter provision shall apply.

Any person who violates said code shall be punished as provided in § 1-104.[2] (Ord. #3663, Feb. 1999)

7-202. Where filed. At least three (3) copies of the code adopted in this chapter shall be maintained on file in the office of the city recorder and shall be available for inspection by any interested person. (1985 Code, § 10-27)

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

[2]State law reference
Codes incorporated by reference: Tennessee Code Annotated, § 6-54-501, et seq.

CHAPTER 3

OPEN BURNING

SECTION

7-301. Purpose. The purpose of this chapter is to establish controls on open burning so as to prevent undesirable levels of air contaminants in the atmosphere. (1985 Code, § 10-44)

7-302. Prohibited. No person shall cause, suffer, allow or permit open burning or shall conduct a salvage operation by open burning except as specifically permitted in this chapter. (1985 Code, § 10-45)

7-303. Exceptions. Open burning as listed in this section may be conducted subject to the specified limitations herein; provided, that no public nuisance is or will be created by such open burning. This grant of exemption shall in no wise relieve the person responsible for such burning from the consequences of or the damages, injuries or claims resulting from such burning:

(1) Domestic burning, exclusive of garbage, at a property used exclusively as a private residence or dwelling for not more than four (4) families where collection service for such material is not available;

(2) Fires used for cooking of food or for ceremonial or recreational purposes including barbecues and outdoor fireplaces;

(3) Fires set for the training and instruction of public or private fire-fighting personnel including those in civil defense;

(4) Fires set by or at the direction of a responsible fire control agency for the prevention, elimination or reduction of a fire hazard;

(5) Open burning of tree limbs, brush, excelsior, dunnage and other items of comparable combustion characteristics, provided the following conditions are met:

(a) The site of such burning is not nearer than one (1) mile to a designated primary highway or military, commercial, municipal or private airport; and

(b) The site of such burning is not nearer than one-half mile to a designated secondary highway, national reservation, state park, wildlife area, state forest or residence.

(6) Such other open burning as may be approved by the fire chief or other official as from time to time may be designated by the city manager or

acting city manager, where there is no other practical, safe or lawful method of disposal. (1985 Code, § 10-46)

7-304. Permits. 1. Open burning as listed in § 7-303 (1)-(4), may be conducted in accordance with the limitations of such section without permit. However, this shall not relieve any person of the responsibility of obtaining such permit as may be required by any other agency relative to open burning, i.e., under Tennessee Code Annotated, § 39-3-226. All other open burning shall be contingent upon possession of a valid written permit from the city fire chief or other official as from time to time may be designated by the city manager or acting city manager; except, that owners or operators of open burning operations in existence on or before the effective date of this chapter may continue such operations provided proper application for a permit is made as hereinafter described and until such time as final action has been taken on the application. Application for a permit for open burning shall be made on forms supplied by the city. Failure to submit completed forms or to supply requested supplementary information concerning an existing or proposed open burning operation shall constitute just cause for refusing issuance of a permit.

2. Any person proposing to conduct open burning, not exempted in subsection (1) of this section, shall make application for and have in his possession a valid open burning permit before such open burning is commenced.

3. Failure to strictly adhere to the provisions of any open burning permit shall be sufficient cause for revocation of any permit issued hereunder. Such revocation shall be made by the official issuing the same. All permits issued hereunder shall terminate upon completion of the operation conducted thereunder or the expiration of a period designated in such permit not to exceed one hundred eighty (180) calendar days from the issuance of such permit. (1985 Code, § 10-47)

TITLE 8

ALCOHOLIC BEVERAGES

CHAPTER

CHAPTER 1

MISCELLANEOUS[1]

SECTION

8-101. Definitions. Whenever used in title 8, the following terms shall have the following meanings unless the context necessarily requires otherwise:

(1) "Alcoholic beverage," high alcohol content beer," and "wine." These definitions shall be the same as provided in Tennessee Code Annotated, § 57-3-101, as the same may be amended.

(2) "Applicant." The person applying for a license.

(3) "Application." The form or forms an applicant is required to file in order to obtain a license.

(4) "Beer." For purposes of this title, "beer" means beer, ale or other malt beverages, or any other beverages having an alcoholic content of not more than eight percent (8%) by weight, except wine as defined in Tennessee Code Annotated, § 57-3-101; provided, however, that no more than forty-nine percent (49%) of the overall alcoholic content of such beverage may be derived from the addition of flavors and other nonbeverage ingredients containing alcohol.

(5) "Beer board." For the purpose of this title, "beer board" means a board composed of the members of the Board of Commissioners of the City of Johnson City who shall have the duty to regulate and supervise the issuance of

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

beer license to manufacture, store, distribute and sell beer as provided in title 8. Board of commissioners shall be synonymous with "beer board" unless otherwise stated or implied.

(6) "Distiller" means any person who owns, occupies, carries on, works, conducts or operates any distillery either personally or by an agent.

(7) "Distillery" means and includes any place or premises wherein any liquors are manufactured for sale.

(8) "Certificate of compliance." The certificate mentioned in Tennessee Code Annotated, § 57-3-208, as the same may be amended, in connection with the prescribed procedure for obtaining a state liquor retailer's license.

(9) "Clubs; lodges." Licenses may be issued to clubs or lodges which are regularly incorporated, operating under a charter and bylaws, whose members must pay a substantial initiation fee and which are organized and exist for purposes other than the sale of beverages under such license.

(10) "Federal statutes." The statutes of the United States now in effect or as they may hereafter be changed.

(11) "Inspection fee." The monthly fee a licensee is required to pay, the amount of which is determined by a percentage of the gross sales of a licensee.

(12) "License." A license issued under the provisions of this title for the purpose of authorizing the holder thereof to engage in the business of selling alcoholic beverages at retail in the city.

(13) "License fee." The annual fee a licensee is required by this title to pay at or prior to the time of the issuance of a license.

(14) "Licensee." The holder of a license.

(15) "Liquor store." The building or the part of a building where a licensee conducts any of the business authorized by the license held by such licensee.

(16) "Manufacture" means and includes brewing high alcohol content beer, distilling, rectifying and operating a winery.

(17) "Manufacturer" means and includes a brewer of high alcohol content beer, distiller, vintner and rectifier.

(18) "Minor." Any person who has not attained eighteen (18) years of age; except that where used in title 8 with respect to purchasing, consuming or possessing alcoholic beverages, wine or beer, "minor" means any person who has not attained twenty-one (21) years of age. This shall not be construed as prohibiting any person eighteen (18) years of age or older from selling, transporting, possessing or dispensing alcoholic beverages, wine or beer in the course of employment pursuant to valid server permit.

(19) "Restaurant" shall mean any 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, such place being provided with adequate and sanitary kitchen and dining room equipment and a seating capacity of at least twenty-five (25) 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.

(20) "Retail sale" or "sale at retail." A sale to a consumer or to any person for any purpose other than for resale.

(21) "State alcoholic beverage commission." The Tennessee Alcoholic Beverage Commission, provision for which is made in the state statutes, including the provisions of Tennessee Code Annotated, §§ 57-1-101 through 57-1-209.

(22) "State liquor retailer's license." A license issued under the state statutes (including the provisions contained in Tennessee Code Annotated, §§ 57-3-101 through 57-3-412) for the purpose of authorizing the holder thereof to engage in the business of selling alcoholic beverages at retail.

(23) "State rules and regulations." All applicable rules and regulations of the state applicable to alcoholic beverages, as now in effect or as they may hereafter be changed, including without limitation the local option liquor rules and regulations of the Tennessee Alcoholic Beverage Commission.

(24) "State statutes." The statutes of the State of Tennessee now in effect or as they may hereafter be changed.

(25) "Wholesale sale" or "sale at wholesale." A sale to any person for purposes of resale.

(26) "Wholesaler." Any person who sells at wholesale any beverage for the sale of which a license is required under the provisions of Tennessee Code Annotated, §57-3-101 through 57-3-412.

(27) "Wine." This definition shall be the same as provided in Tennessee Code Annotated, §57-3-101, as the same may be amended. (1985 Code, § 3-1, as amended by Ord. #3876, May 2002, and Ord. #4308-08, May 2009, and replaced by Ord. #4596-15, March 2016, and Ord. #4691-19, June 2019 ***Ch12_6-20-20***, and amended by Ord. #4809-22, June 2022 ***Ch14_06-16-22***)

8-102. Public display--public drinking. (1) Except as permitted by the board of zoning appeals by special exception in the B-2 Central Business District, it shall be unlawful for any person publicly to drink any alcoholic beverage, wine, high alcohol content beer, or beer on any public street or public sidewalk or on any school ground or public walking trail or in any park, playground, stadium, or school. Except as permitted by the board of zoning appeals by special exception in the B-2 Central Business District, it shall be unlawful for any person to display, exhibit or show openly an unsealed, immediate container of any alcoholic beverage, wine, high alcohol content beer, or beer on any public street or public sidewalk or on any school ground or public walking trail, or in any park, playground, stadium, or school. The beer license for any establishment receiving a special exception from the board of zoning appeals shall automatically be amended to conform to the terms of the special

exception, but only for the time the special exception is in effect. No person shall publicly drink, display, sell, exhibit or show openly an unsealed, immediate container of any alcoholic beverage, wine, high alcohol content beer, or beer within Founders Park, The Pavilion at Founders Park, The Amphitheater at Founders Park, King Commons, the pedestrian areas containing flood control measures installed by the city bounded by Roan Street, West Millard Street, Boone/Commerce Streets and State of Franklin Road, or the streets and public spaces bounding the same, except for beer during downtown special events/street festivals and/or pursuant to temporary occasion beer licenses (see § 8-214) approved by the city commission or during other events held in accordance with the provisions of this title.

(2) For private events that are invitation-only and not open to the public at Founders Park, The Pavilion at Founders Park, The Amphitheater at Founders Park, King Commons, and the pedestrian areas containing flood control measures installed by the city bounded by Roan Street, West Millard Street, Boone/Commerce Streets and State of Franklin Road, scheduled through the City of Johnson City or another entity that the board of commissioners designates for such purposes, if no consideration is charged or money exchanged for the sale of alcoholic beverages, wine, high alcohol content beer, or beer or to attend the event, the serving (but not sale), possession, and consumption of alcoholic beverages, wine, high alcohol content beer, and beer are permitted during such hours allowed for such beverages for on-premises consumption.

(3) For public and private events at Founders Park, The Pavilion at Founders Park, The Amphitheater at Founders Park, King Commons, and the pedestrian areas containing flood control measures installed by the city bounded by Roan Street, West Millard Street, Boone/Commerce Streets and State of Franklin Road, scheduled through the City of Johnson City or another entity that the board of commissioners designates for such purposes, if a consideration is charged or money exchanged either to attend the event or for the sale of alcoholic beverages, wine, high alcohol content beer, or beer, the sale, serving, possession, and consumption of alcoholic beverages, wine, high alcohol content beer, and beer are permitted during such hours allowed for such beverages for on-premises consumption, provided that a temporary occasion beer license is obtained from the Board of Commissioners of the City of Johnson City (for beer) and a license is obtained from the Tennessee Alcoholic Beverage Commission (for alcoholic beverages, wine, and high alcohol content beer). Notwithstanding the foregoing, no alcoholic beverages, wine, or high alcohol content beer shall be allowed to be sold, consumed, or possessed in these areas at downtown special events/street festivals, such as the Blue Plum or UMOJA festivals, which have specific regulations as shown below. Caterers holding a valid license pursuant to Tennessee Code Annotated, § 57-4-101 et seq. to sell wine, beer, and other alcoholic beverages may cater events authorized by this paragraph without a temporary occasion beer license from the city.

(4) Notwithstanding the provisions of subsection (3) above, retail sales and the consumption of beer shall be allowed at the baseball stadium owned by the city on Legion Street, the civic center owned by the city on Pactolas Road, and the municipal golf course on Buffalo Road in the City of Johnson City, except for events involving pre-K through 12th grade institutions.

(5) No person shall be allowed to bring any alcoholic beverages, wine, high alcohol content beer, or beer into the baseball stadium on Legion Street, the civic center on Pactolas Road, or the municipal golf course on Buffalo Road for the purposes of "brown bagging" or otherwise.

(6) No person shall be allowed to carry beer out of the baseball stadium on Legion Street, the civic center on Pactolas Road, or the municipal golf course on Buffalo Road. All beer allowed at the baseball stadium shall be consumed within the gates of those premises. All beer allowed at the civic center shall be consumed within the building of those premises. All beer allowed at the municipal golf course shall be consumed within the course and grounds of those premises.

(7) Any violation of this section shall be punishable by a fine of not more than fifty dollars ($50.00) for each separate violation in addition to any other penalties authorized within this title. (Ord. #3512, Sept. 1997, as replaced by Ord. #4596-15, March 2016, and Ord. #4691-19, June 2019 ***Ch12_6-20-20***, and amended by Ord. #4772-21, July 2021 ***Ch14_06-16-22***)

8-103. Open containers on premises whether or not allowing brown bagging. (1) It shall be unlawful for any person to open, or to have open, or to consume any alcoholic beverages, wine, high alcohol content beer, or bear anywhere inside or outside on the premises of a business, where said beverages cannot lawfully be purchased or are not permitted by law or ordinance, whether those alcoholic beverages, wine, high alcohol content beer, or beer are contained in a bottle, can, flask, or any other container of any and every kind and description. (1985 Code, § 3-2, as replaced by Ord. #4691-19, June 2019 ***Ch12_6-20-20***)

8-104. Sale of wine containing unlawful amount of alcohol. It shall be unlawful for any person to sell, or offer to sell, or aid or abet in selling or offering to sell, within the city, any wine containing a greater percentage of alcohol by volume than that authorized by the laws of the state. (1985 Code, § 3-3, as replaced by Ord. #4691-19, June 2019 ***Ch12_6-20-20***)

8-105. Prohibited acts on premises selling beer, wine, and other alcoholic beverages. (1) It shall be unlawful for any person to appear in any place or establishment or upon the premises thereof where wine, beer, or other alcoholic beverages are offered for sale, consumed, possessed, or otherwise present and to:

(a) Publicly perform acts, or simulated acts, of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any other sexual acts prohibited by law.

(b) Publicly engage in the actual or simulated touching, caressing, or fondling of the anus or genitals.

(c) Publicly engage in the actual or simulated displaying of the pubic hair, anus, buttocks, vulva, genitals, or any portion thereof, or breasts below the top of the areola of any person.

(d) Publicly wear or use any device or covering, exposed to public view, which simulates the human breasts, genitals, anus, buttock, pubic hair or any portion thereof.

(2) It shall be unlawful for any person to permit or allow another to commit any of the acts specified in subsection (1) hereof on or about the premises which are owned, managed, possessed, occupied, or operated by said person or in which said person is employed.

(3) The following acts or conduct on premises licensed by the city are deemed contrary to public policy, and therefore no license issued by the city shall be held at any premises where such conduct or acts are permitted:

(a) To employ, use or allow any person in the sale or service of wine, beer or other alcoholic beverages in or upon the licensed premises while such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the male or female breasts below the top of the areola or of any portion of the pubic hair, anus, cleft of the buttock, vulva, or genitals;

(b) To employ, use or allow the services of any hostess or other person to mingle with the patrons while such hostess or other person is unclothed or in such attire, costume or clothing as described in subsection (a) hereinabove;

(c) To encourage or permit any person on the licensed premises to touch, caress or fondle the anus or genitals of any other person;

(d) To encourage or permit any act prohibited by Tennessee Code Annotated, § 57-4-204, or other applicable law or ordinance.

(4) It shall be unlawful for any person to engage in or encourage any of the acts or conduct set forth in subsection (3) hereinabove in any place or establishment or upon the premises thereof where wine, beer, or other alcoholic beverages are offered for sale, consumed, possessed, or are otherwise present.

(5) Live entertainment shall be permitted on any licensed premises, subject to all other applicable laws and ordinances, except that:

(a) No licensee or employee of licensee shall permit any person to perform acts of or acts which simulate the following:

(i) Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law;

(ii) The touching, caressing or fondling of anus or genitals;

(iii) The displaying of the pubic hair, anus, vulva, or genitals.

(b) Subject to the provisions of subsection (a) hereinabove, any entertainer who is employed in whole or in part or otherwise suffered or allowed by the licensee to dance or otherwise perform at such licensee's premises, shall perform only on a stage at least eighteen inches (18") above the immediate floor level and removed at least six feet (6') from the nearest patron.

(6) No licensee or employee of any licensee shall permit any person to use artificial devices or any animate objects to depict any of the prohibitive activities described above, nor shall any licensee or employee of any licensee permit any person to remain in or upon the licensed premises whose exposing to public view any portion of his or her genitals or anus.

(7) The following conduct or acts on licensed premises are deemed contrary to public policy, and therefore no license for the sale, dispensing or possession of wine, beer, or other alcoholic beverages issued or in any way caused to be issued by the city shall be held at any premises where such conduct or acts are permitted:

The showing of films, still pictures, electronic reproductions, or other visual reproductions depicting the following:

(a) Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;

(b) Any person being touched, caressed, or fondled on the anus, or genitals;

(c) Scenes wherein the person displays the vulva or the anus or the genitals;

(d) Scenes wherein artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any of the prohibited activities described above.

(8) The Police Bureau of the City of Johnson City is hereby empowered to conduct investigations into alleged violations of the provisions of this section, of Tennessee Code Annotated, § 57-4-204, and of any and all other applicable laws or ordinances, and that said bureau shall report such violations to the appropriate authorities for such action as may be proper.

(9) Nothing contained in this section shall be construed to prohibit engaging by persons of either sex in swimming or related activities while clad in attire customarily worn for such purposes within the community.

(10) Nothing contained in this section shall be construed to prohibit the broadcast or display of any television program subject to regulation by the Federal Communications Commission of the United States.

(11) Nothing contained in this section shall be construed to prohibit the showing or featuring of motion pictures by a movie theater where the primary business is showing motion pictures to the public for public entertainment at a commonly charged fee and where the motion pictures shown or featured in the movie theater are not rated above R (Restricted), with said ratings being issued by the Motion Picture Association of America (MPAA) via the Classification and Rating Administration (CARA).

(12) The violation of any provision of this section is hereby declared to be a public nuisance. (Ord. #3134, March 1993, as replaced by Ord. #4691-19, June 2019 ***Ch12_6-20-20***)

CHAPTER 2

BEER OF NOT MORE THAN FIVE PERCENT ALCOHOLIC CONTENT

SECTION

8-201. Penalty. Any person violating the provisions of this chapter shall upon conviction be fined not more than fifty dollars ($50.00) for each offense; each separate occurrence and each day of an offense shall be construed as constituting a separate offense. (1985 Code, § 3-20, as replaced by Ord. #4691-19, June 2019 ***Ch12_6-20-20***)

8-202. Transport, sale to comply with rules. It shall be unlawful for any person to transport, store, sell, distribute, possess, receive or manufacture beverages mentioned in § 8-101 within the corporate limits of the city, except as provided by all of the regulations, limitations and restrictions provided by the laws of the state and this chapter, and subject to the rules and regulations

enacted by authorized public officials or boards. Applicable state law reference shall be made to Tennessee Code Annotated, § 57-1-209. (1985 Code, § 3-21, as replaced by Ord. #4596-15, March 2016, and Ord. #4691-19, June 2019 ***Ch12_6-20-20***)

8-203. Hours of sale. (1) Off-premises sales: The sale of beer is authorized for off-premises licensees between the hours of 6:00 A.M. and 3:00 A.M., Monday through Saturday. The sale of beer shall be prohibited for all off-premises licensees on Sunday between the hours of 3:00 A.M. and 8:00 A.M., but shall be authorized for all off premises licensees on Sunday at hours outside of that time period.

(2) On-premises sales: The sale of alcoholic beverages, wine, high alcohol content beer, and beer is authorized for on-premises license between the hours of 8:00 A.M. and 3:00 A.M., Monday through Saturday. The sale of alcoholic beverages, wine, high alcohol content beer, and beer shall be prohibited for all on-premises licensees on Sunday between the hours of 3:00 A.M. and 10:00 A.M., but shall be authorized for all on-premises licensees on Sunday at hours outside of that time period.

(3) It shall be unlawful to consume any alcoholic beverages, wine, high alcohol content beer, and beer upon any premises licensed by the City of Johnson City for the sale of such beverages for on-premises consumption or to open such beverages or to display or possess such beverages in an open bottle, glass, or other open container fifteen (15) minutes beyond the time that beer sales for on-premises establishments end.

(4) Any person operating or otherwise having charge and control of any on-premises licensed location shall cause any and all containers as described in the previous paragraph, whether the same are open or not, to be removed from any tables, bars, or other areas occupied by patrons not later than fifteen (15) minutes beyond the time that beer sales for on-premises establishments end. (1985 Code, § 3-22, as replaced by Ord. #4691-19, June 2019 ***Ch12_6-20-20***)

8-204. Minors; intoxicated persons; loitering. (1) It shall be unlawful for anyone under the age of twenty-one (21) years to purchase or attempt to purchase beer, wine, high alcohol content beer, or alcoholic beverages and it shall be unlawful for anyone under the age of twenty-one (21) years to possess any such beverage upon the premises of a licensee.

(2) It shall be unlawful for any person to sell beer, wine, high alcohol content beer, or alcoholic beverages to any person who is less than twenty-one (21) years of age, or for any person under the age of twenty-one (21) years to buy beer, wine, high alcohol content beer, or alcoholic beverages, and which offense shall be punishable by fine or otherwise as provided by law.

(3) It shall be unlawful for a person under the age of twenty-one (21) years to submit a false identification for the purpose of misrepresenting the age or identity of the person attempting to make a purchase of beer, wine, high

alcohol content beer, or alcoholic beverages, and which offense shall be punishable by fine or otherwise as provided by law.

(4) It shall be unlawful for any licensee or his agent or employee to allow or permit any intoxicated person to loiter upon or about the licensed premises.

(5) It shall be unlawful for any person to sell beer, wine, high alcohol content beer, or alcoholic beverages to any person who reasonably appears to be intoxicated.

(6) It shall be unlawful for any person to sell beer, wine, high alcohol content beer, or alcoholic beverages to any person without first verifying as to that person's date of birth.

(7) Anyone who acts in violation of any one (1) or more of the provisions of this section shall be guilty of a misdemeanor and, if of suitable age, shall be taken before juvenile court for appropriate disposition. A minor shall bear the same definition as so defined in Tennessee Code Annotated, § 1-3-105. State law reference for the sale of beer to minors is contained in Tennessee Code Annotated, § 57-5-301, et seq. (Ord. #3320, Sept. 1995, as amended by Ord. #3499, July 1997, and replaced by Ord. #4408-11, Sept. 2011 and Ord. #4596-15, March 2016, and Ord. #4691-19, June 2019 ***Ch12_6-20-20***)

8-205. Wholesale beer tax. Pursuant to the authority contained in Tennessee Code Annotated, § 57-6-103, as the same may be amended, there is hereby imposed a tax on the sale of beer at wholesale within the city. State law reference for the local enforcement of wholesale beer tax is contained in Tennessee Code Annotated, § 57-6-113. (1985 Code, § 3-24, as amended by Ord. #3015, Sept. 1991, Ord. #3623 Version B, Oct. 1998, and Ord. #3674, May 1999, and replaced by Ord. #4596-15, March 2016, and Ord. #4691-19, June 2019 ***Ch12_6-20-20***)

8-206. Advertising signs or displays. Notwithstanding any provision of any other ordinance of the City of Johnson City to the contrary, and particularly those pertaining to signs, no retail licensee may erect, maintain or suffer any on-premises signs, advertising or displays for the purpose of advertising beer except as provided in this section, as follows:

(1) One (1) advertising or display sign which makes reference to the fact that the establishment sells beer may be erected on the outside of the building or on the premises. Said sign display may only show the single word "beer" with the size of the letters not to exceed a total of eight inches (8") in height and a total of thirty-six inches (36") in length and which shall not use brand names, pictures, numbers, prices, diagrams, or other forms of communication relating to beer. Furthermore, no accompanying words, phrases or other forms of communication which relate to, describe or in any sense modify or explain the word "beer" shall be permitted.

(2) (a) One (1) sign, containing the single word "beer" with the size of the letters not to exceed a total of eight (8") inches in height and a total of twenty-four (24") inches in length, is permitted within a window or on the building, subject to the same prohibitions as described hereinabove in subsection (1) of this section.

(b) Retail licensees may erect or maintain any quantity, size or style of signs or other advertising displays on the inside of the premises, subject to the provisions of the Sign Code of the City of Johnson City as the same may be applicable, so long as such signs or displays are not window signs or are not readily visible from the outside of the premises. (1985 Code, § 3-25, as replaced by Ord. #4596, March 2016, and Ord. #4691-19, June 2019 ***Ch12_6-20-20***)

8-207. License--required. No person shall engage in the storing, selling, distributing or manufacturing of beer or any other beverage referred to in § 8-202 within the corporate limits of the city until he receives a license to do so. (Ord. #3623 Version B, Oct. 1998, as replaced by Ord. #4691-19, June 2019 ***Ch12_6-20-20***)

8-208. License--classes. (1) Licenses for the sale of beer shall be according to the following classes:

(a) Class 1: On-premises, where alcoholic beverages, beer, high alcohol content beer, or wine is sold for consumption at a restaurant, hotel, motel, club, lodge, bar, theater, or for a governmental entity, where the governing body of the governmental entity has authorized the sale of beer.

(b) Class 2: Off-premises, where beer is sold for consumption off the premises.

(c) Class 3: Off-premises, originally licensed by Washington County, Carter County, or Sullivan County, where beer is sold for consumption off the premises and on which said premises there exists at the time of annexation a lawful, valid, and unrestricted license for the sale of off-premises consumption of beer. The license authorized by this class shall be permitted to exist following annexation only if the licensee shall be properly qualified for the sale of beverages under this code, as provided in § 8-209 hereinafter, has filed a duly certified copy of the license issued to said licensee by Washington County, Carter County, or Sullivan County with the city recorder; and, all such licenses, upon annexation and qualification under this part, shall not be transferred from the premises occupied at the time of annexation and qualification under this chapter, any other provision of this code, or other rule, regulation, ordinance or law to the contrary notwithstanding.

(d) Class 4: Wholesale license, which is for a business engaged in the delivery of beer (or high alcohol content beer, where applicable) by

a wholesaler to a retailer and which does not allow sales to any persons not holding a retail beverage sales license.

(e) Class 5: Manufacturer/retailer, which is for a business engaged in the manufacture of beer and which sells the aforesaid beer for consumption on the premises or off the premises, providing that the aggregate of such sales shall not exceed the sum of twenty-five thousand (25,000) barrels of beer annually, in accordance with all provisions of Tennessee Code Annotated, chapter 5, title 57, as the same may be amended, which chapter is hereby incorporated in its entirety by reference as fully as if set forth verbatim herein.

(2) The determination of the class of license to be granted shall be solely within the discretion and judgment of the city commission. (1985 Code, § 2-38, as replaced by Ord. #4691-19, June 2019 ***Ch12_6-20-20***)

8-209. License--application--generally. (1) Each applicant for a license under this chapter shall file with the city manager or his or her designee a sworn petition in writing, establishing the following facts, the truth of each and all of which facts at the time of approval of the application are hereby made conditions of any license issued hereunder:

(a) The applicant shall be the owner of the business regulated by this chapter and said applicant shall provide their name, the name under which the business will operate, the business address, the name, telephone number, and email address of the representative/agent of the business, the applicant's date of birth or the creation of the business, the applicant's social security number or the business tax identification number, the address of the property from which the business will be operated, the name and telephone number of the owner of said property, and the zoning designation of said property.

(b) The applicant shall provide a legal description of the premises on which the business will be located, photographs of the finished interior and exterior of the actual building wherein the business is located, copies of the deed to the subject premises, any leases and other agreements to which the same are subject, and a survey by a licensed surveyor depicting all boundaries of the subject premises and showing the location of any and all structures thereon.

(c) An owner/manager/supervisor application shall be completed for all general partners, owners, managers, and supervisors.

(d) The applicant shall confirm whether the applicant has or has not had a license for the sale of alcoholic beverages or controlled substances revoked or suspended by the City of Johnson City, Tennessee.

(e) The applicant shall confirm that the applicant is responsible for knowing, complying, and abiding by all local and state beer laws.

(f) The applicant shall confirm that, at the time of making the application, the applicant, nor any servers or other persons listed in the

application, have been convicted of committing any state or federal felony, violating any DUI/DWI/implied consent laws, or violating any criminal law regarding theft, burglary, violence, child abuse, spousal abuse, prostitution, or pandering within the ten (10) year period next preceding the date of application.

(g) The applicant shall confirm that the applicant and all managers, supervisors, and servers consent to be investigated by municipal, county, state, and federal law enforcement agencies or any other agency or representative thereof; or such other firms as may be employed concerning any information presented in the application and any other information which any of the aforementioned authorities deem pertinent.

(h) The applicant shall provide any additional information as may be required by the board of commissioners or their designee or the city manager or his or her designee from time to time in their absolute discretion.

(2) Applications shall be submitted on forms promulgated by the city, which forms shall be satisfactory to the city manager and legal counsel for the city. Except as otherwise provided in this chapter, and except under those circumstances where the commission in its absolute discretion deems that an extraordinary circumstance exists which makes it desirable to award a license to a particular applicant, licenses should be issued to qualified applicants on a first come, first served basis.

(3) Any provision of any ordinance or statute notwithstanding, an application shall be considered void and of no effect and shall be returned to the applicant without a refund of the application fee, unless at the time of filing the application, the following requirements are met:

(a) The premises for which the application is filed shall be wholly within the corporate limits of the City of Johnson City;

(b) The premises for which the application is filed shall be properly zoned;

(c) Payment in full of all application fees has been made to and received by the recorder of the City of Johnson City;

(d) The application shall be in all respects accurate and complete;

(e) The applicant shall have complied with all other requirements of this section.

(4) No license under this chapter shall be authorized for, granted to, or held at any time by any person, firm, corporation, partnership, limited liability company, or other legal entity, in violation of any law; for a premises in violation of the zoning code, building code, fire code, or public health requirements of the city; that provided false statements or omitted relevant facts on the application; or, who is delinquent in tax payments to any governmental agency.

(5) The city shall issue no license until the premises for which the application is filed has received a certificate of substantial completion from the city.

(6) In no event shall an on-premises license be issued for the sale of beer within one hundred feet (100') of any school, child daycare center, park, playground, church or other bona fide religious establishment. The said one hundred feet (100') shall be measured from the center of the front door of the licensed premises to the center of the nearest entrance/exit door of any school building, child day care center or church building in a straight line. For playgrounds and parks the one hundred foot (100') measurement shall be from the center of the front door of the licensed premises to the nearest point on the property line bounding the playground or park in a straight line (Ord. #3623 Version B, Oct. 1998, as replaced by Ord. #4596-15, March 2016, and Ord. #4691-19, June 2019 ***Ch12_6-20-20***, and amended by Ord. #4755-20, Feb. 2021 ***Ch13_05-06-21***)

8-210. <u>License--application procedure</u>. (1) Accurate and complete applications meeting all requirements of the title 8 of the Johnson City Municipal Code that are filed under this chapter shall be considered by the Beer Board of the City of Johnson City in an open, public meeting. The beer board shall grant or refuse the license according to its best judgment and absolute discretion under all of the facts and circumstances then appearing to it. The action of said beer board in granting or refusing a license shall be final and subject to judicial review as provided by the laws of the State of Tennessee. The applicant shall appear in person before the beer board or may be represented by an attorney. Failure to do so will result in denial of application.

(2) In the event it becomes unduly burdensome and creates a financial hardship for an applicant to submit a complete application, meeting all requirements of title 8 of the Johnson City Municipal Code, for timely consideration by the beer board, the beer board shall grant, in its discretion, a temporary business beer license, so long as the only incomplete application items are exclusively limited to the photographs and/or certificate of substantial completion as set forth in § 8-209(1)(b) and § 8-209(5). At the time of consideration of the temporary business beer license by the beer board, testimony shall be proffered during the open public meeting by the director of development services, or his/her designee, providing sufficient proof of anticipated compliance from the building division of the city by the applicant. In no event shall a temporary business beer license be issued more than twice to a named owner/manager/supervisor of any business within a five (5) year period. A temporary business beer license shall be valid for a period of time not exceeding thirty (30) days. At the expiration of the temporary business beer license, the applicant shall immediately cease all sales, service, and storage of beer pursuant to this chapter if a complete application has not been considered and approved by the beer board, thus causing the issuance of a beer license

(non-temporary and unabridged) pursuant to title 8. Discretion to extend a temporary business beer license pursuant to this section shall be only upon agreement of the city attorney and director of development services and said extension shall not exceed a period of ten (10) days. (Ord. #3848, Nov. 2001, as repealed by Ord. #4223-06, Oct. 2006, and replaced by Ord. #4691-19, June 2019 ***Ch12_6-20-20***, and Ord. #4809-22, June 2022 ***Ch14_06-16-22***)

8-211. Application fee; privilege tax; permits. Each applicant for a license issued hereunder shall pay to the city a non-refundable application fee of two hundred fifty dollars ($250.00) and each holder of a license issued hereunder shall pay to the city an annual privilege tax of one hundred dollars ($100.00), and shall also be subject to any and all other provisions of Tennessee Code Annotated, § 57-5-104, to which reference is here made and which section is incorporated in its entirety by reference into this section as fully as set forth verbatim. (1985 Code, § 3-41, as amended by Ord. #3378, March 1996, and replaced by Ord. #4691-19, June 2019 ***Ch12_6-20-20***)

8-212. License--display. The license granted pursuant to this chapter shall be framed under glass and placed so that it is conspicuous and may be easily read at all times. (Ord. #3848, Nov. 2001, as replaced by Ord. #4223-06, Oct. 2006, amended by Ord. #4596-15, March 2016, and replaced by Ord. #4691-19, June 2019 ***Ch12_6-20-20***)

8-213. License--transfer. (1) Licenses issued hereunder shall not be transferred. Any license issued hereunder shall expire upon the termination of the business, change in ownership, relocation of the business or change in the business' name as provided in Tennessee Code Annotated, § 57-5-103(a)(6). (Ord. #3623 Version B, Oct. 1998, as replaced by Ord. #4223-06, Oct. 2006, and Ord. #4691-19, June 2019 ***Ch12_6-20-20***)

8-214. Temporary occasion beer licenses. (1) The board of commissioners may grant temporary occasion beer licenses to bona fide charitable, non-profit organizations, and businesses with an on- or off-premises beer license (as long as the on-premises beer licensee does not also hold an on-premises liquor-by-the-drink license from the Tennessee Alcoholic Beverage Commission and some portion of proceeds from the special event are for the benefit of a bona fide charitable, non-profit organization) for such temporary occasions involving the sale of beer for consumption, or the inclusion of beer for consumption, in conjunction with the sale of other products or food items, or serving beer in conjunction with any temporary occasion for which there is any charge, entrance fee, or request for donation, and upon such terms and conditions as it shall in its sole discretion deem appropriate. Temporary occasion beer licenses are also allowed for Founders Park, The Pavilion at Founders Park, The Amphitheater at Founders Park, King Commons, and the pedestrian

areas containing flood control measures installed by the city bounded by Roan Street, West Millard Street, Boone/Commerce Streets and State of Franklin Road, subject to the restrictions of this title. No temporary occasion beer licensee shall sell beer for consumption or allow taking beer off of the premises whereon the temporary occasion occurs, unless such is allowed at a special event/street festival. Such permits shall not be issued for longer than one (1) consecutive forty-eight (48) hour period, subject to the limitations on the hours of sale imposed by law.

(2) For the purposes of this section, "bona fide charitable, non-profit organization" means any corporation or organization recognized as exempt from federal taxes under 26 U.S.C. section 501(c).

(3) The fee for each such temporary occasion beer license shall be seventy-five dollars ($75.00); this fee may be adjusted by resolution of the board of commissioners.

(4) Any charitable, non-profit organization or licensed business possessing such a temporary occasion beer license shall obtain beer for sale or distribution at any such temporary occasion only from licensed sources provided pursuant to law.

(5) For charities, applications for such temporary occasion beer licenses shall state the applicant's status as a charitable, non-profit organization and shall include documentation showing recognition of its status as a non-profit organization under federal law, the type of organization, its name, its mailing address, its officers, the location of the premises upon which beer shall be served, the purpose for the request, the person or persons in charge of and responsible for such occasion, the persons, groups or entities benefitting from such occasion, and such other information as the city manager or his/her designee may require. For businesses with beer licenses, the application shall include a copy of the beer license, the name of the applicant, the applicant's mailing address, the address/location of the premises upon which beer shall be served, the person(s) in charge of and responsible for the occasion, and such other information as the city manager or his/her designee may require.

(6) Temporary occasion beer licenses shall be issued by the city to and in the name of a particular natural person or persons and in the name of the bona fide charitable, non-profit organization or licensed business, and shall be issued for a particular premises or location. All such temporary occasion beer licenses shall be issued subject to all provisions pertaining to signage contained in this chapter or elsewhere in the Johnson City Municipal Code.

(7) All temporary occasion beer licensees shall use servers possessing server's permits issued by either the city or the State of Tennessee during the temporary occasion. (Ord. #3623 Version B, Oct. 1998, as replaced by Ord. #4223-06, Oct. 2006, Ord. #4596-15, May 2016, and Ord. #4691-19, June 2019 ***Ch12_6-20-20***, and amended by Ord. #4772-21, July 2021 ***Ch14_06-16-22***, and Ord. #4809-22, June 2022 ***Ch14_06-16-22***)

8-215. Special event series temporary occasion beer license.

(1) The beer board may grant special event series temporary occasion beer licenses to bona fide charitable, non-profit organizations, recognized as exempt from federal taxes under 26 U.S.C. section 501(c), and businesses with an on- or off-premises beer license (as long as the on-premises beer licensee does not also hold an on-premises liquor-by-the-drink license from the Tennessee Alcoholic Beverage Commission and some portion of proceeds from the special event are for the benefit of a bona fide charitable, non-profit organization) for special event series involving the sale of beer for consumption, or the inclusion of beer for consumption, in conjunction with the sale of other products or food items, or serving beer in conjunction with any special event series for which there is any charge, entrance fee, or request for donation, and upon such terms and conditions as it shall in its sole discretion deem appropriate. Special event series temporary occasion beer licenses are allowed for Founders Park, The Pavilion at Founders Park, The Amphitheater at Founders Park, and King Commons, subject to the restrictions of this title. No special event series temporary occasion beer licensee shall sell beer for consumption or allow taking beer off of the premises whereon the special event series occurs, unless such is allowed in conjunction with a special event/street festival. Such permits shall not be issued for longer than one (1) consecutive forty-eight (48) hour period, and shall be issued for no more than ten (10) events within the special event series, subject to the limitations on the hours of sale imposed by law. Each event within the special event series shall be consistent in nature of the event, layout of the event, location of the event, and time of operation of the event. Any event included in the special event series that requires revision(s) or modifications(s) to the nature of the event, layout of the event, location of the event or time of operation of the event will at that time be excluded from the special event series and a temporary occasion beer license will be required for that event.

(2) For the first violation of any provision of this chapter, the city manager shall suspend a license for five (5) days by notice in writing giving not less than twenty-four (24) hours prior to effecting said suspension, and may reinstate the license if the cause of circumstances warranting the suspension has been corrected. If the license holder refuses to accept the city manager's suspension, then the license holder must appeal to the board of commissioners by giving notice in writing to the city manager by certified mail. The city manager must receive this notice within ten (10) calendar days of the date of the city manager's decision to suspend.

(3) Upon appeal of the city manager's suspension by a first time offender (as calculated in § 8-215(10) below), or upon a second or subsequent violation of any provision of this chapter within a five (5) year period after the date of a prior violation, the city manager shall present this matter to the board of commissioners and give written notice to the license holder. Such notice shall be sufficient if sent by first-class mail or delivered to the place for which the license is issued. Such notice shall inform the licensee of the next regular

meeting of the board of commissioners coming not less than three (3) days excluding Saturdays, Sundays and legal holidays, from the date of the alleged violation, informing the licensee that consideration may be given to the revocation as well as the suspension of the license.

(4) At the next regularly scheduled meeting of the board of commissioners not less than three (3) days, excluding Saturdays, Sundays and legal holidays, from the date of the alleged violation, the board of commissioners shall consider the alleged violation. The board may, however, postpone the hearing until another specified time according to its discretion. The licensee shall be entitled to be represented by counsel and shall be entitled to testify and offer evidence on his own behalf. The burden of proof on such appeal shall be upon the appellant to show cause why the license should not be suspended or revoked. Failure to appear or to be otherwise represented by counsel shall be considered as admission of charges brought forth.

(5) Concerning any violation of this chapter, regardless of the number of alleged violations, the board of commissioners shall not be limited as to their decision, which may include but not be limited to suspending the license until a certain date or until certain actions or requirements are met, or revocation of the license. The minimum punishment for a second or subsequent violation within a five (5) year period from the date of a prior violation shall be a suspension of fifteen (15) days. (See § 8-215(10) for calculating the number of violations.)

(6) In the alternative, the city manager or his/her designee may initiate suspension or revocation proceedings directly before the board of commissioners, by petitioning said board of commissioners, either orally or in writing, for initiation of such proceedings and the setting of a hearing. If the board of commissioners elects to schedule such a hearing, said hearing shall proceed as provided hereinabove. In any instance in which the aforementioned board of commissioners is petitioned to set a hearing to consider the suspension or revocation of a license issued hereunder, as provided hereinabove, and considers the allegations upon which the request for such hearing is made likely to indicate a hazard to the health, safety, or morals of the citizens of the City of Johnson City, then and in such an event the board of commissioners may in its absolute discretion suspend the license in question pending such hearing.

(7) No license issued hereunder shall be construed or deemed as vesting a property right in any licensee, but shall instead be deemed a privilege.

(8) Should there be any change in any name, address, or other information required to be submitted for any license sought or issued herewith, the applicant or license holder shall file a supplemented report with the city recorder within ten (10) days of such change. Failure to strictly adhere to this requirement may result in denial, suspension, or revocation of such license.

(9) For purposes of calculating suspensions, a "day" shall be defined as twenty-four (24) consecutive hours, and a suspension shall "begin" on the cited effective date thereof at twelve (12:00) noon and end at 11:59 A.M. on the

last day of the suspension. Suspensions shall be served in consecutive operating days, excluding days on which the subject location is not open for business.

(10) For purposes of calculating the number of violations in § 8-215 or noise violations in § 8-216 following the effective date of these two (2) sections, no suspension or revocation of any beer license imposed prior to the effective date of the ordinance comprising these sections shall be counted.

(11) For off-premises establishments, refer to state law regarding license suspensions, revocations, penalties, etc. (1985 Code, § 3-45, as replaced by Ord. #4691-19, June 2019 ***Ch12_6-20-20***, and amended by Ord. #4772-21, July 2021 **Ch14_06-16-20**2, and Ord. #4809-22, June 2022 ***Ch14_06-16-22***)

8-216. License--suspension for noise violations, calculations of time and number of violations, etc. (1) The city manager, following a recommendation made by the chief of police, shall suspend a license issued pursuant to title 8 of the Johnson City Code when the city manager is satisfied, based on the evidence presented, that two (2) or more violations of the maximum permitted sound levels set forth in § 11-503 of title 11 of the Johnson City Code (hereinafter referred to collectively as "noise violations") have occurred. Each day on which the maximum permitted sound level is exceeded shall constitute a separate violation.

(2) In the event the city manager is satisfied that the requisite showing set forth in subsection (1) of this section has been made with respect to noise violations, the city manager's suspension of a beer license or setting of a show cause hearing shall be made in conformance with, and subject to, the following guidelines:

(a) Noise violations.

(i) If the noise violation is the second such violation within three (3) years next preceding the date of said violation and following the effective date of the ordinance comprising this section, the city manager's suspension shall be for a duration of not more than two (2) days; or

(ii) If the noise violation is the third such violation within three (3) years next preceding the date of said violation and following the effective date of the ordinance comprising this section, the city manager's suspension shall be for a duration of not more than four (4) days; or

(iii) If the noise violation is the fourth such violation within three (3) years next preceding the date of said violation and following the effective date of the ordinance comprising this section, the city manager's suspension shall be for a duration of not more than six (6) days; or

(iv) If the noise violation is the fifth such violation within three (3) years next preceding the date of said violation and following the effective date of the ordinance comprising this

section, the city manager's suspension shall be for a duration of not more than ten (10) days.

(v) If the noise violation is the sixth or more such violation within three (3) years next preceding the date of said violation and following the effective date of the ordinance comprising this section, a show cause hearing shall be convened before the board to consider and determine whether the subject beer license should be revoked.

(b) Any suspension by the city manager imposed pursuant to this subsection shall apply only to the license issued for the location at which the noise violation(s) allegedly occurred and shall not apply to any other location(s) at which the relevant beer licensee holds a beer license. Nothing contained in this subsection shall be construed as limiting the discretion of the board of commissioners with respect to any license or licenses held by any licensee.

(3) Notice of impending suspensions or show cause hearings for alleged violations of this section ("notice") shall be provided to the beer licensee in writing, and said notice shall be sufficient if it is either:

(a) Sent by first class mail, or

(b) Delivered by hand, to the beer licensee or to the location for which the subject beer license is issued. If a suspension is being imposed, said notice shall set forth the dates and times such suspension shall begin and end, together with a succinct statement of the grounds or reasons therefor. If a show cause hearing is being convened, said notice shall set forth the date, time and location of the show cause hearing, together with a succinct statement of the grounds or reasons therefor.

(4) Upon notice of an impending suspension for the second through fifth violation of the aforementioned maximum sound levels provisions, pursuant to this section, the beer licensee or an authorized representative shall accept the suspension imposed by the city manager pursuant to subsection (2), in writing, or appeal the city manager's suspension in writing to the board. Written notification of said appeal shall be timely only if delivered to, or otherwise received by, the city manager before said suspension is ratified by the board pursuant to subsection (5) of this section.

(5) Suspensions imposed by the city manager pursuant to subsection (2) of this section shall become effective on the date and at the time set forth in the notice, following ratification by the board.

(6) At the next regularly scheduled meeting of the board, coming not less than three (3) days, excluding Saturdays, Sundays and federal holidays, from the receipt by the city manager of an appeal by a beer licensee of a suspension imposed by the city manager pursuant to subsection (2) of this section, the board shall hear and consider the beer licensee's appeal of such suspension at a show cause hearing. The board may, however, continue the show cause hearing and its consideration of any such appeal in its discretion.

(7) The city manager may initiate suspension or revocation proceedings for violations of this section directly before the board by petitioning the board, either orally or in writing, for the setting of a show cause hearing.

(8) In any instance in which the board is petitioned to set a show case hearing to consider the suspension or revocation of a license issued pursuant to this title of the Johnson City Code, and considers the allegations upon which the requests for such hearing is made likely to indicate a hazard to the health, safety, or morals of the citizens of the City of Johnson City, the board of commissioners may in its absolute discretion suspend the license in question pending such hearing. Notice of such hearing shall be provided to the licensee in writing together with a succinct statement of the grounds or reasons for the proposed action, and shall be sent by first-class mail or delivered by hand to the place for which the license is issued at least three (3) days, excluding Saturdays, Sundays and legal holidays before the date of the hearing.

(9) The beer licensee shall be entitled to be represented by counsel at suspension or revocation hearings conducted by the board and shall be entitled to testify and offer evidence on his or her own behalf. The burden of proof shall be upon the appellant to show cause why the license should not be suspended or revoked. Failure by the beer licensee to appear or to be otherwise represented at a board hearing about which the beer licensee has received a notice shall be considered by the board as an admission of all charges. The board of commissioners shall not be limited as to their decision, which may include suspension or revocation.

(10) For purposes of calculating suspensions, a "day" shall be defined as twenty-four (24) consecutive hours, and a suspension shall "begin" on the cited effective date thereof at twelve (12:00) noon and end at 11:59 A.M. on the last day of the suspension. Suspensions shall be served in consecutive operating days, excluding days on which the subject location is not open for business.

(11) For purposes of calculating the number violations in § 8-215 or noise violations in § 8-216 following the effective date of these two (2) sections, no suspension or revocation of any beer license imposed prior to the effective date of the ordinance comprising these sections shall be counted.

(12) For off-premises establishments, refer to state law regarding license suspensions, revocations, penalties, etc. (Ord. #3623 Version B, Oct. 1998, as replaced by Ord. #4691-19, June 2019 ***Ch12_6-20-20***)

8-217. <u>Alcohol awareness training</u>. All holders of licenses issued pursuant to title 8 of the code of the City of Johnson City, Tennessee, their principals, and/or all employees directly working in a capacity or serving, selling, or otherwise dispensing alcoholic beverages regulated pursuant to this chapter, are required to either successfully complete a program of alcohol awareness training (at least every three (3) years) by an entity certified by the city manager to have an adequate training curriculum for alcohol awareness or obtain a valid Tennessee Alcoholic Beverage Commission server permit

requiring completion of a certified alcohol awareness program. (Ord. #3623 Version B, Oct. 1998, as replaced by Ord. #4223-06, Oct. 2006, Ord. #4596-15, March 2016, and Ord. #4691-19, June 2019 ***Ch12_6-20-20***)

8-218. Seller/server permits. For server permits for off-premises establishments, refer to state law.

(1) It is unlawful for a licensee, any principal, manager, or any other employee to personally sell, serve, or otherwise dispense alcoholic beverages regulated pursuant to this chapter without a valid server permit. It is made the duty of the licensee to ensure that each person selling, serving, or dispensing alcoholic beverages in his, her, or its place of business has a valid server permit. The violation of the licensee of his, her, or its duty to ensure proper permitting of each person selling, serving, or dispensing alcoholic beverages regulated pursuant to this chapter in his, her, or its place of business shall result in a suspension of that license or revocation thereof under the provisions of § 8-215. Said permit must be on the person of the seller, server, or dispenser or upon the premises of the licensee at all times subject to inspection by the city's duly authorized agent.

(2) Any individual may be eligible for a server permit issued by the City of Johnson City by completing an application for such permit on forms promulgated by the city recorder's office. An individual will be deemed an eligible, valid server if holding a valid on premise permit (server permit) issued by the Tennessee Alcohol Beverage Commission. An applicant for a server permit issued by the City of Johnson City must demonstrate to the city that the applicant meets the following requirements:

(a) The applicant has not been convicted of committing any state or federal felony, any DUI/DWI/implied consent laws, or violating any criminal laws regarding theft, burglary, crime of violence, child abuse, spousal abuse, prostitution, or pandering within the five (5) year period next preceding the date of application.

(b) The applicant has not been convicted of or violated any statute, rule, or regulation against the prohibition, sale, consumption, manufacture, handling, or transportation of beer within the five (5) year period next preceding the date of application or the possession, sale, manufacture, and transportation of intoxicating liquor or any crime of moral turpitude within the ten (10) year period next preceding the date of the application.

(c) The applicant has not been convicted of or violated any statute, rule, or regulation regarding any controlled substances within the five (5) year period next preceding the date of application.

(d) The applicant has not had a seller/server permit or similar permit issued in a foreign jurisdiction revoked by any issuing authority within the five (5) year period next preceding the date of application.

(e) Within one (1) year prior to the submission of the application, the applicant shall successfully complete a program of alcohol awareness training for persons involved in the direct service of alcohol, wine, or beer by an entity certified by the city manager to have an adequate training curriculum for alcohol awareness; and

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

(3) Each seller/server permit issued by the City of Johnson City shall be valid for three (3) years. Applications for renewal shall be made in the same manner as application for original permits upon forms prescribed by the city recorder's office. Applicants for renewal must successfully complete a program of alcohol awareness training pursuant to § 8-217(1).

(4) Upon the conviction of a seller/server permit holder for beer sales violations, said permit shall be revoked.

(5) A seller/server permit, issued by the city, that is lost may be replaced by completing another application if the applicant has successfully completed a program of alcohol awareness training within one (1) year prior to the submission of the application pursuant to subsection (3) of this section.

(6) The city may conduct a criminal record review for any applicant for a seller/server permit to ensure the applicant's compliance with the requirements of this section.

(7) The city may assess an application and renewal fee for the permits to be issued under this section. The city may assess a certification fee to any organization or entity seeking certification pursuant to §8-217(2). (Ord. #3623 Version B, Oct. 1998, as replaced by Ord. #4223-06, Oct. 2006, and Ord. #4691-19, June 2019 ***Ch12_6-20-20***)

8-219. <u>Prohibited conduct or activities by beer permit holders, applicants, licensees, and employees</u>. (1) The following acts or conduct on premises licensed by the city are deemed contrary to public policy, and therefore no beer permit issued by the city shall be held at any premises where the following conduct or acts are permitted, suffered, or allowed to occur:

(a) To encourage or permit any act prohibited by <u>Tennessee Code Annotated</u>, § 57-4-204, or other applicable law or ordinance.

(b) Subject to the provisions of subsection (a) hereinabove, any entertainer who is employed in whole or in part or otherwise suffered or allowed by the licensee to dance or otherwise perform at such licensee's premises, shall perform only on a stage at least eighteen inches (18") above the immediate floor level and removed at least six feet (6') from the nearest patron.

(2) No licensee or employee of any licensee shall permit any person to use artificial devices or any animate objects to depict any of the prohibited activities referenced in <u>Tennessee Code Annotated</u>, § 57-4-204, nor shall any licensee or employee of any licensee permit any person to remain in or upon the

licensed premises who is exposing to public view any portion of his or her genitals or anus.

(3) The police bureau of the City of Johnson City is hereby empowered to conduct investigations into alleged violations of the provisions of this section, of any pertinent section of Tennessee Code Annotated, and of any and all other applicable laws or ordinances, rules, regulations, and that said bureau shall report such violations to the appropriate authorities for such action as may be proper.

(4) Nothing contained in this section shall be construed to prohibit engaging by persons of swimming or related activities on licensed premises while clad in attire customarily worn for such purposes within the community.

(5) Nothing contained in this section shall be construed to prohibit the broadcast or display or any television program subject to regulation by the Federal Communications Commission of the United States on licensed premises.

(6) Nothing contained in this section shall be construed to prohibit the showing or featuring of motion pictures by a movie theater where the primary business is showing motion pictures to the public for public entertainment at a commonly charged fee and where the motion pictures shown or featured in the movie theater are not rated above R (Restricted), with said ratings being issued by the Motion Picture Association of America (MPAA) via the Classification and Rating Administration (CARA). (Ord. #3674, May 1999, as replaced by Ord. #4223-06, Oct. 2006, and Ord. #4691-19, June 2019 ***Ch12_6-20-20***)

8-220. Training of licensees, employees, etc. Any person holding a license hereunder, or owning any business or any interest in any business licensed hereunder, or employed to operate or work in the same as a manager, cashier or other person completing the sale on behalf of the license holder, shall, within six (6) weeks of acquiring such license, ownership, ownership interest or employment satisfactorily complete a program of training, which program shall be in form and content satisfactory to the city manager or his/her designee, provided that any such person may be excused from the provisions of this section by waiver granted by the city manager or his/her designee if it is proven by evidence satisfactory to the aforesaid official, in his/her sole and absolute discretion:

(1) That such person is already sufficiently familiar with applicable laws and ordinances pertaining to the sale of alcoholic beverages pursuant to this chapter so as to merit such a waiver; or

(2) That such person holds a "server permit" issued by the Tennessee Alcoholic Beverage Commission as provided in Tennessee Code Annotated, § 57-5-106 (a). An appropriate charge will be made for such training program in an amount to be set by the city manager. (Ord. #3674, May 1999, as replaced by Ord. #4691-19, June 2019 ***Ch12_6-20-20***)

8-221. Drive-through window sales. It shall be unlawful for any person to sell or deliver alcoholic beverages pursuant to this chapter through a drive-through window. The foregoing sentence notwithstanding, nothing contained herein shall be construed as prohibiting sales or delivery of such beverages through drive-in windows on premises which were properly licensed for off-premises sales at the same location on or before the date of passage of Ordinance #3623 Version B, October 1998 on third and final reading, for so long as said premises remained continuously licensed at that location. For the purposes of this subsection, the term "continuously licensed" shall mean licensed without any break, whether the same is due to expiration, suspension, or revocation, in excess or thirty (30) days. (Ord. #3674, May 1999, as replaced by Ord. #4223-06, Oct. 2006, amended by Ord. #4271-07, Sept. 2007, and replaced by Ord. #4691-19, June 2019 ***Ch12_6-20-20***)

8-222. Grandfathered status. Nothing contained in this chapter shall be construed as granting "grandfathered" status to signage or any other practice or procedure except as expressly herein provided. (Ord. #3623 Version B, Oct. 1998, as replaced by Ord. #4691-19, June 2019 ***Ch12_6-20-20***)

8-223. Downtown special events/street festivals. (1) This section applies to downtown special events/street festivals such as the Blue Plum and UMOJA festivals. The area of Downtown Johnson City to which this section applies shall be: East Market Street from Colonial Way to Buffalo Street (but not including Colonial Way which shall remain open at all times); East Main Street from Colonial Way to Buffalo Street (but not including Colonial Way which shall remain open at all times); South Roan Street from State of Franklin Road to its intersection with Buffalo Street; Buffalo Street from its intersection with South Roan to its intersection with State of Franklin Road; Wilson Avenue and the pedestrian walkway reserved on former Wilson Avenue to its intersection with South Commerce Street; South Commerce Street from its intersection with Wilson Avenue to Lamont Street as the same borders Founders Park to before the railroad crossing gates at State of Franklin Road; Founders Park; The Pavilion at Founders Park; The Amphitheater at Founders Park, King Commons; Tipton Street; McClure Street; Spring Street from State of Franklin Road to its intersection with East Main Street; South Commerce Street to West Market Street to Windsor Way to West Main Street to South Commerce Street, and the pedestrian areas containing flood control measures installed by the city bounded by Roan Street, West Millard Street, Boone/Commerce Streets and State of Franklin Road. Also included are all public sidewalks, public easements, public alleys, public squares, public parking lots, or other public ways or public spaces within the boundary of the areas listed above.

(2) An applicant for a downtown special event/street festival involving the public consumption of beer within the area or part of the area described in

subsection (1) above shall apply for a permit using the City of Johnson City's special events application. Events that involve the consumption or sale of beer at Founders Park, the Pavilion at Founders Park, The Amphitheater at Founders Park, King Commons, or the pedestrian areas containing flood control measures installed by the city bounded by Roan Street, West Millard Street, Boone/Commerce Streets and State of Franklin Road may also require an application and scheduling through the City of Johnson City or another entity that the board of commissioners designates for such purposes.

(3) The applicant shall submit with the application to the city a map that details the area or part of the area described in subsection (1) above for the closing of streets, public sidewalks, public alleys, etc. whereon the possession and consumption of beer is requested to occur. The area depicted on the map, after approval by the board of commissioners in its sole, absolute discretion, shall become the "permitted area" within which the possession and consumption of beer will be allowed for the duration of the downtown special event/street festival. This map is in addition to any information required in any other application. The board of commissioners shall have the authority to alter or to refuse to approve the map and application in its sole, absolute discretion. The board of commissioners shall have the absolute authority to approve a downtown special event/street festival but disallow the possession, consumption, or sale of beer within any or all areas depicted on the map submitted with the application for the special event/street festival. The regulations in this section pertaining to the possession, consumption, or sale of beer during downtown special events/street festivals shall only apply in those areas where the board of commissioners has approved the same; otherwise, the possession, consumption, or sale of beer shall not be permitted.

(4) The possession and consumption of beer in the permitted area shall be allowed no earlier than 1:00 P.M. and no later than 11:00 P.M.

(5) All beer shall be purchased from persons, firms, corporations and other entities that are duly licensed to sell beer on premises that front the streets closed within the permitted area. No serving, dispensing, or pouring of beer shall take place outside of the confines of the interior walls and serving areas of the licensed premises that are currently licensed under applicable state statutes and municipal ordinances governing the sale of beer within the permitted area fronting the streets closed in the permitted area. All points of sale, kegs, and taps shall be confined within the interior walls of the licensed premises. No points of sale, kegs, or taps shall be allowed on sidewalks where an establishment has received a special exception from the board of zoning appeals for sidewalk dining.

(6) No serving, dispensing, or pouring of beer shall be allowed upon the public sidewalks, public easements, public alleys, public squares, or other public ways or public spaces within the permitted area, except as set forth in a current, valid sidewalk dining special exception authorized by the board of zoning appeals. No licensed restaurants shall serve beer to any person who is not

within the board of zoning appeals permitted sidewalk dining area or within the confines of the interior walls and serving area of the licensed premises.

(7) Notwithstanding any provision of this title to the contrary, an organization that sponsors a special event/street festival is allowed to serve, dispense, and pour (but not sell) beer using servers possessing server's permits issued by either the city or the State of Tennessee at one (1) location within the permitted area within the confines of a tent, typically designated as a 'VIP' tent, only between the hours of 5:00 P.M. and 9:00 P.M. on each day of the special event/street festival. All kegs and taps shall be confined within the tent.

(8) Notwithstanding any provision of this title to the contrary, the sale of beer on public property during a special event/street festival is allowed only at Founders Park (and also on the streets bordering Founders Park), The Pavilion at Founders Park (but not on the streets bordering The Pavilion at Founders Park), The Amphitheater at Founders Park, King Commons, and the pedestrian areas containing flood control measures installed by the city bounded by Roan Street, West Millard Street, Boone/Commerce Streets and State of Franklin Road. Beer sales at Founders Park (and on the portion of South Commerce Street bordering it), at The Pavilion at Founders Park (but not on the streets bordering it), and within the pedestrian areas containing flood control measures installed by the city bounded by Roan Street, West Millard Street, Boone/Commerce Streets and State of Franklin Road shall be authorized only for qualified organizations pursuant to a separate temporary occasion beer license obtained prior to the special event/street festival from the board of commissioners in accordance with § 8-214. Beer sales shall begin no earlier than 1:00 P.M. and shall end no later than 10:30 P.M. on each day that the temporary occasion beer license authorizes the sale of beer.

(9) All sales of food, non-alcoholic beverages, and merchandise from vendors with permits from the sponsoring organization for vending sites shall be permitted from 8:00 A.M. until 11:00 P.M. on each day of the special event/street festival in the permitted area. All such vendors shall obtain a special event vendor's license from the city, unless they possess a valid Tennessee business license.

(10) No person shall carry or bring any outside beer or other alcoholic beverages for personal consumption into or out of the permitted area.

(11) Only pedestrian traffic and vehicles pertaining to the special event/street festival shall be allowed in the permitted area, and all other traffic except police, EMS, fire or other such emergency equipment shall be prohibited.

(12) Coolers, glass bottles, glass thermos bottles, and breakable glasses or containers shall be prohibited within the permitted area. No container of beer shall be capable of containing more that sixteen (16) fluid ounces within the permitted area. All beer containers in the permitted area shall be clear plastic.

(13) Alcoholic beverages, wine, and high alcohol content beer as defined in this title shall not be allowed for possession or consumption within the

permitted area and must be consumed within the licensed establishments fronting the streets closed in the permitted area.

(14) Any music associated with a special event/street festival shall conclude at 11:00 P.M.

(15) The authorized license holder making the sale shall be responsible at the entrance to the business premises for checking all identification in order to ensure legal compliance with the laws pertaining to legal drinking age and no such license holders shall allow beer as permitted herein to leave the licensed premises for off-premises consumption after 10:30 P.M.

(16) Each violation of a provision of this section shall subject a violator to a fine as specified in the Code of the City of Johnson City, Tennessee, in § 1-104; furthermore, a violator with a beer license is subject to all fines, suspensions, and revocations as set forth in title 57 of the Tennessee Code Annotated, § 1-104 of the Code of the City of Johnson City, Tennessee, and title 8 of the Code of the City Of Johnson City, Tennessee.

(17) No alcoholic beverages, wine, or high alcohol content beer shall be sold, consumed, or possessed during a special event/street festival within one hundred feet (100') of any school, child daycare center, park, playground, church or other bona fide religious establishment. The said one hundred feet (100') shall be measured from the nearest point of the beer permitted area to the center of the nearest entrance/exit door of any school building, child day care center or church building in a straight line. For playgrounds and parks the one hundred foot (100') measurement shall be from the nearest point of the beer permitted area to the nearest point on the property line bounding the playground or park in a straight line. (Ord. #3154, Sept. 1993, as replaced by Ord. #4691-19, June 2019 ***Ch12_6-20-20***, and amended by Ord. #4772-21, July 2021 ***Ch14_06-16-22***)

8-224.--8-227. Deleted. (as deleted by Ord. #4691-19, June 2019 ***Ch12_6-20-20***)

8-228. Dispensing equipment. (1) A licensee shall not allow on the licensed premises any dispensing equipment, whether or not operated by coin, currency or electronic payment, that dispenses any type of beer directly to a customer unless the licensee has obtained self-service approval from the beer board. Said approval shall only be issued in an open meeting of the beer board to a qualified licensee currently holding a Class 1 beer license for the identified premises, and shall be noted on the beer license. Licensee shall monitor the sale, service, and consumption of beer from the dispensing equipment to ensure compliance with all state and local laws and ordinances.

(2) Dispensing equipment authorized under the self-service approval must be affixed to a permanent location at an on-premises licensed establishment and shall have a clearly marked perimeter and shall only be accessible to customers wearing a microchip embedded wristband as further described in subsection (4)(a). Access to the inside of the dispensing equipment

shall be restricted by a locking device which shall be locked during the hours that the business is open to the public, and may only be opened by an employee or agent of the licensee when the business is closed to the public. While customers will be allowed to dispense beer to themselves, only employees or agents of the licensee may turn on, turn off, or restart the equipment. Further, any software needed to operate the dispensing equipment shall be exclusively controlled by the licensee and shall be located in a permanent location inside the permitted premises.

(3) At least fifty percent (50%) of the licensee's gross revenue must be derived from food sales, as calculated during a twelve (12) month period.

(4) Upon receipt of self-serve approval, dispensing equipment shall only be permissible if all of the following conditions are met:

(a) After checking and verifying the customer's identification, the server shall securely place on the wrist a distinctive non-tamper wristband on individuals age of twenty-one (21) and above, and a microchip embedded wristband on individuals age of twenty-one (21) and above who intend to enter the clearly marked dispensing equipment perimeter as further described in section (2).

(b) Before a customer orders a beer from a clerk, servant, agent, or employee of the licensee (hereinafter "server"), the server shall verify the customer's legal age as well as determine if the customer can otherwise be served an alcoholic beverage. Said server shall hold a valid server permit as described in § 8-219(2).

(c) Dispensing equipment will only dispense beer to customers wearing microchip embedded wristbands.

(d) Licensee shall have at least one (1) server at each point of access into the clearly marked dispensing equipment perimeter to ensure that no customers enters, except those customers wearing a distinctive non-tamper wristband and a microchip embedded wristband.

(e) While the dispensing equipment is in operation, it is the licensee's obligation to have servers re-check customers' identifications, confirm customers are wearing microchip embedded wristband correctly, confirm customers are only pouring beer for themselves, and prohibit customers who may be intoxicated from obtaining any beer.

(f) Dispensing equipment shall not dispense more than twenty-eight (28) ounces of beer to a customer in a single order and no more than twelve (12) ounces of beer may be dispensed per serving.

(g) Dispensing equipment shall be located in a single common area which is open only to all legal drinking age customers.

(h) Customers using dispensing equipment who wish to purchase more than one (1) order in a two (2) hour period shall be required to show their identification again to the server before the microchip embedded wristband is reactivated to all the equipment to dispense more beer, at which time the server shall assess the customer

to determine if they are exhibiting any symptoms of being overserved prior to allowing them to place another order.

(i) Dispensing equipment may only operate on days and at times when the sale of alcoholic beverages is permitted by law.

(j) Licensee shall shut off the dispensing equipment immediately upon discovery any failure in the dispensing equipment or technology where the amount of beer served to customers is reset or is no longer limited and customers shall be prevented from receiving any beer until the dispensing equipment is repaired and properly functioning.

(k) Microchip embedded wristband must be removed from customers by the licensee's employee prior to the customer leaving the establishment for any reason.

(l) Server must disable the microchip embedded wristband of any customer exhibiting any signs of intoxication to prevent the customer from obtaining more beer.

(m) At the close of business each day, the licensee shall disable all microchip embedded wristbands which shall prevent them from being used to dispense beer at a future date without a customer first having gone through the above protocol. Further, any unconsumed orders of beer (or portion thereof) shall not be carried over to any subsequent day of operation. (as deleted by Ord. #4691-19, June 2019 ***Ch12_06-20-20***, and replaced by Ord. #4809-22, June 2022 ***Ch14_06-16-22***)

CHAPTER 3

ALCOHOLIC BEVERAGES OF MORE THAN FIVE PERCENT ALCOHOLIC CONTENT

SECTION

8-301. Selling, storing, transporting, manufacturing; generally.

(1) It shall be unlawful for any person 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, and by rules and regulations promulgated thereunder and as provided under this chapter.

(2) The manufacture of alcoholic beverages is prohibited within the corporate limits of the city. (1985 Code, § 3-65, as amended by Ord. #4596-15, March 2016, and replaced by Ord. #4691-19, June 2019 ***Ch12_6-20-20***)

8-302. Wholesale business generally. No person shall engage in the business of selling alcoholic beverages at wholesale within the corporate limits

of the city. (1985 Code, § 3-66, as replaced by Ord. #4596-15, March 2016, and Ord. #4691-19, June 2019 ***Ch12_6-20-20***)

8-303. Sale at retail. It shall be lawful for a licensee to sell alcoholic beverages at retail in a liquor store; provided, that all such sales are made in strict compliance with all federal statutes, all state statutes, all state rules and regulations and all provisions of this chapter. (1985 Code, § 3-67, and replaced by Ord. #4691-19, June 2019 ***Ch12_6-20-20***)

8-304. Licensee responsible for officers and agents. Each licensee shall be responsible for all acts of such licensee's officers, employees, agents and representatives, so that any violation of this chapter by any officer, employee, agent or representative of a licensee shall constitute a violation of this chapter by such licensee. (1985 Code, § 3-68, and replaced by Ord. #4691-19, June 2019 ***Ch12_6-20-20***)

8-305. Violations of federal, state statutes, etc. Any licensee who, in the operation of such licensee's liquor store, shall violate any federal statute, any state statute or any state rule or regulation concerning the purchase, sale, receipt, possession, transportation, distribution or handling of alcoholic beverages shall be guilty of a violation of the provisions of this chapter. (1985 Code, § 3-69, and replaced by Ord. #4691-19, June 2019 ***Ch12_6-20-20***)

8-306. Location of liquor store. It shall be unlawful for any person to operate or maintain a liquor store in the city unless the liquor store is located in a zone district permitting such business and as recorded on the zoning map of the city dated December 5, 1963, and subsequent revisions thereof and on file in the recorder's office. Such liquor store shall not be located within one hundred feet (100') of any school, child daycare center, park, playground, church or other bona fide religious establishment. The said one hundred feet (100') shall be measured from the center of the front door of the licensed premises to the center of the nearest entrance/exit door of any school building, child day care center or church building in a straight line. For playgrounds and parks the one hundred foot (100') measurement shall be from the center of the front door of the licensed premises to the nearest point on the property line bounding the playground or park in a straight line. No liquor store shall be located at any place where excessive congestion is present or is likely to develop. Off-street parking space shall be provided as stated in Article V, section 2 of the zoning ordinance of the city. To assure that these requirements are satisfied, no original or renewal license and no original or renewal certificate of compliance for an applicant for a license shall be issued for any location until a majority of the members of the board of commissioners have approved the proposed location as being suitable for the location of a liquor store after a consideration of this matter at a meeting

of the board of commissioners. (1985 Code, § 3-70, and replaced by Ord. #4691-19, June 2019 ***Ch12_6-20-20***)

8-307. Time of operation. No liquor store shall be open and no licensee shall sell or give away any alcoholic beverage on Christmas Day or on Thanksgiving Day. On other days, no liquor store shall be open and no licensee shall sell or give away any alcoholic beverage before 8:00 A.M. or after 11:00 P.M. In the event of any emergency, liquor stores shall be closed upon the order of the city manager or the chief of police, in further accordance with Tennessee Code Annotated, § 57-3-406. (1985 Code, § 3-71, as replaced by Ord. #4596-15, March 2016, and Ord. #4691-19, June 2019 ***Ch12_6-20-20***)

8-308. Records kept by licensee. In addition to any records specified in the rules and regulations promulgated by the city recorder pursuant to § 8-311, each licensee shall keep on file at such licensee's liquor store the following records:

(1) The original invoices of all alcoholic beverages bought by the licensee;

(2) The original receipts for any alcoholic beverages returned by such licensee to any wholesaler;

(3) A current daily record of the gross sales by such licensee, with cash register tapes for each day's sales; and

(4) An accurate record of all alcoholic beverages lost, damaged, given away or disposed of other than by sale, and showing for each such transaction the date thereof, the quantity and brands of alcoholic beverages involved and the name of the person or persons receiving the same.

All such records shall be preserved for a period of at least fifteen (15) months unless the city recorder gives the licensee written permission to dispose of such records at an earlier time. (1985 Code, § 3-72, and replaced by Ord. #4691-19, June 2019 ***Ch12_6-20-20***)

8-309. Inspections--generally. The city manager and the city recorder, or the authorized representative of either of them, are authorized to examine the books, papers and records of any licensee at any and all reasonable times for the purpose of determining whether the provisions of this chapter are being observed. The city manager, the city recorder, the chief of police and any police officer of the city are authorized to enter and inspect the premises of a liquor store at any time the liquor store is open for business. Any refusal to permit the examination of the books, papers and records of a licensee, or the inspection and examination of the premises of a liquor store, shall be a violation of this chapter and shall constitute sufficient reason for the revocation of the license of the offending licensee, or for the refusal to renew the license of the offending

licensee. (1985 Code, § 3-73, and replaced by Ord. #4691-19, June 2019 ***Ch12_6-20-20***)

8-310. Inspections--fees. (1) Amounts--generally. There is hereby levied on each licensee, including retail food store licensees, pursuant to Tennessee Code Annotated, § 57-3-501, as the same may be amended, an inspection fee of five percent (5%) of the gross purchase price of all alcoholic beverages and wine acquired by the licensee for sale from any wholesaler or any other source. Collection of such inspection fee shall be made by the wholesaler or other source vending to the licensee at the time the sale is made to the licensee or at the time the retailer makes payment for the delivery of the alcoholic beverages and/or wine, and in such case, payment for the delivery of the alcoholic beverages and/or wine, and in such case, payment of the inspection fee by such collecting wholesaler or other source shall be made to the city recorder on or before the twentieth (20th) day of each calendar month for all collections in the preceding calendar month. Nothing herein shall relieve the licensee of the obligation of the payment of the inspection fee, and it shall be the licensee's duty to see that the payment of the inspection fee is made to the city recorder on or before the twentieth (20th) day of each calendar month for the preceding month. There is also imposed on a manufacturer of high alcohol content beer with an on-premises retail license a fifteen percent (15%) inspection fee to inspect the retail store in which such products are sold by the manufacturer, pursuant to Tennessee Code Annotated, § 57-3-501, as the same may be amended. This inspection fee is imposed on the wholesale price of the high alcohol content beer supplied pursuant to § 57-3-204(e)(7)(B) by a wholesaler for those products manufactured and sold by the manufacturer at its retail store as authorized pursuant to § 57-3-204(e)(7).

(2) Amounts--private clubs. An annual liquor inspection fee of three hundred dollars ($300.00) shall be paid to the city by the operators of private clubs.

(3) Reports. The city recorder shall prepare and make available to each wholesaler or other source vending alcoholic beverages to licensees sufficient forms for the monthly report of inspection fees payable by each licensee making purchases from such wholesaler or other source; the city recorder is authorized to promulgate reasonable rules and regulations to facilitate the reporting and collection of inspection fees and to specify the records of such sales and fees to be kept by each wholesaler or other vending source.

(4) Failure to pay fees. The failure to pay the inspection fees and to make the required reports accurately and within the time prescribed in this chapter shall, at the sole discretion of the city manager, be cause for the suspension of the offending licensee's license for as much as thirty (30) days, and at the sole discretion of the board of commissioners, be cause for the revocation

of such license; and such action may be taken by giving written notice thereof to the licensee, no hearing with respect to such an offense being required.

(5) Use of funds. All funds derived from the inspection fees imposed herein shall be used to defray expenses in connection with the enforcement of this chapter, including particularly the payment of the compensation of officers, employees or other representatives of the city in investigating and inspecting licensees and applicants, and in seeing that all provisions of this chapter are observed; and the board of commissioners finds and declares that the amount of these inspection fees is reasonable and that the funds expected to be derived from these inspection fees will be reasonably required for such purposes, pursuant to Tennessee Code Annotated, §57-3-501, et seq. (1985 Code, § 3-74, as replaced by Ord. #4691-19, June 2019 ***Ch12_6-20-20***)

8-311. Selling or furnishing to minors, etc. It shall be unlawful for any licensee to sell, furnish or give away any alcoholic beverage to a minor, or to a person visibly intoxicated or to any habitual drunkard. It shall be unlawful for any such person to enter or remain in a liquor store or to loiter in the immediate vicinity of a liquor store. It shall be unlawful for a licensee to allow any such person to enter or remain in such licensee's liquor store or any part of the licensee's premises adjacent to such licensee's liquor store. It shall be unlawful for any such person to buy or receive any alcoholic beverage from any licensee or from any other person. It shall be unlawful for a minor to misrepresent his age in an attempt to gain admission to a liquor store or in an attempt to buy any alcoholic beverage from a licensee. (1985 Code, § 3-75, as amended by Ord. #4596-15, March 2016, and replaced by Ord. #4691-19, June 2019 ***Ch12_6-20-20***)

8-312. Consumption on premises of liquor store. Except as permitted by Tennessee law, it shall be unlawful for any licensee to sell or furnish any alcoholic beverage, wine, beer, or high alcohol content beer for consumption in such licensee's liquor store or on the premises used by the licensee in connection therewith. Except as permitted by Tennessee law, it shall be unlawful for any person to consume any alcoholic beverage, wine, beer, or high alcohol content beer in a liquor store or in the immediate vicinity of a liquor store. Except as permitted by Tennessee law, it shall be unlawful for any licensee to allow any person to consume any alcoholic beverage, wine, beer, or high alcohol content beer in such licensee's liquor store or on the premises used by the licensee in connection therewith. (1985 Code, § 3-76, as replaced by Ord. #4691-19, June 2019 ***Ch12_6-20-20***)

8-313. Maximum number of licenses. No more than one (1) license shall be issued and outstanding for each five thousand five hundred (5,500)

persons, or any fraction thereof, residing in the city according to the official census for the city as certified by the State of Tennessee Department of Economic and Community Development or any successor Tennessee department certifying the city's population. (1985 Code, § 3-77, as replaced by Ord. #4596-15, March 2016, and Ord. #4691-19, June 2019 ***Ch12_6-20-20***)

8-314. License--qualifications of applicant. To be eligible to apply for or to receive a license, an applicant must satisfy all of the requirements of the state statutes and of the state rules and regulations for a holder of a state liquor retailer's license. (1985 Code, § 3-89, as replaced by Ord. #4480-13, March 2013, and Ord. #4691-19, June 2019 ***Ch12_6-20-20***)

8-315. State privilege tax. Before any person shall engage in the sale of alcoholic beverages, a privilege tax shall be paid as required by state laws and regulations. (1985 Code, § 3-90, as replaced by Ord. #4596-15, March 2016, and Ord. #4691-19, June 2019 ***Ch12_6-20-20***)

8-316. License--issuance; term; renewal. Each license shall expire on December thirty-first (31st) of each year. A license shall be subject to renewal each year by compliance with all applicable state statutes, all applicable state rules and regulations and the provisions of this chapter. The city recorder shall not be authorized to issue any license until the applicant has qualified as a liquor retailer under the state statutes and has exhibited to the city recorder the state liquor retailer's license issued to the applicant by the Tennessee alcoholic beverage commission. The license issued by the city recorder shall be of no effect after the expiration of the period for which issued or at any time while the license is suspended or revoked. (1985 Code, § 3-91, as replaced by Ord. #4691-19, June 2019 ***Ch12_6-20-20***)

8-317. License--display. The licensee shall display and post, and keep displayed and posted, his license in a conspicuous place in the licensee's liquor store at all times when any activity or business authorized thereunder is being done by the licensee. (1985 Code, § 3-92, as replaced by Ord. #4691-19, June 2019 ***Ch12_6-20-20***)

8-318. Restrictions upon licensees and employees. (1) Applicant to pay fee. The license fee for every license hereunder shall be payable by the person making application for such license and to whom it is issued, and no other person shall pay for any license issued under this chapter.

(2) Public officers and employees. 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.

(3) Felons--retailers. 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 legal entity with which he is connected shall receive a license; provided, 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; and in the case of any such conviction occurring after a license has been issued and received, the license shall immediately be revoked, if such convicted felon is an individual licensee, and if not, the partnership, corporation or association with which he is connected shall immediately discharge him.

(4) Felons--employees. 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 convicted he shall immediately be discharged; provided, 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.

(5) Liquor offenses. 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 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 such period, been engaged in business alone or with others, in violation of any of such laws or rules and regulations promulgated pursuant thereto, or as they existed or may exist thereafter.

(6) Wholesalers. No manufacturer, brewer or wholesaler shall have any interest in the licensee's rental, occupancy or revenues.

(7) Disclosure of interest. 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 such 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 city manager 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 such interest is acquired after the issuance of the license, the burden of

such disclosure of the acquisition of such interest shall be upon the seller and the purchaser.

(8) Citizenship. No person shall be employed in the sale of alcoholic beverages except a citizen of the United States.

(9) Minors. 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 such age in his place of business to engage in the storage, sale or distribution of alcoholic beverages.

(10) Advertising. No advertising by a licensee on signs, displays, posters or designs intended to advertise any alcoholic beverage, is permitted within the corporate limits of the city, except a sign approved by the city manager, in letters not larger than eight inches (8") in height, designating the premises as "_____ package store." Only one (1) such sign, and no other, shall be permitted and no sign shall extend or project from the building. The lettering on the approved sign shall be in gold or silver leaf, white enamel or plastic or similar material, and the same shall not be artificially illuminated, other than by exterior flood or spot lights.

(11) Off-premises business. All retail sales shall be confined to the premises of the licensee. No curb service is permitted, nor shall there be permitted drive-in windows. No licensee shall employ any canvasser, agent, solicitor or other representative for the purpose of receiving an order from a consumer for any alcoholic beverages at the residence or place of business of such consumer, nor shall any such licensee receive or accept any such order which shall have been solicited or received at the residence or place of business of such consumer. This paragraph shall not be construed so as to prohibit the solicitation by a state licensed wholesaler of any order from any licensed retailer at the licensed premises.

(12) Location; entrance. No liquor store shall be located in the city on any premises above the ground floor. Each such store shall have only one (1) main entrance for use by the public as a means of ingress and egress for the purpose of purchasing alcoholic beverages at retail; provided, that any liquor store adjoining the lobby of a hotel or motel may maintain an additional entrance into such lobby so long as such lobby is open to the public. For state law reference, please see Tennessee Code Annotated, § 57-3-204. (1985 Code, § 3-93, as replaced by Ord. #4691-19, June 2019 ***Ch12_6-20-20***)

8-319. License--transfer. A licensee shall not sell, assign or transfer his license or any interest therein to any other person. No license shall be transferred from one (1) location to another location without the prior written

approval of the board of commissioners. (1985 Code, § 3-94, as replaced by Ord. #4691-19, June 2019 ***Ch12_6-20-20***)

8-320. Nature of license; suspension or revocation. The issuance of a license does not vest a property right in the licensee but is a privilege subject to revocation or suspension. Any license shall be subject to suspension or revocation by the board of commissioners for any violation of this chapter by the licensee or by any person for whose acts the licensee is responsible, but the licensee shall be given reasonable notice and an opportunity to be heard before the board of commissioners suspends or revokes a license for any violation other than one established by final judgment in any court having jurisdiction thereof. If the licensee is convicted of a violation of this chapter by a final judgment in any court and the operation of the judgment is not suspended by an appeal, on written notice to the licensee, the city manager may suspend the license for a period not to exceed thirty (30) days and the board of commissioners may revoke the license on the basis of such conviction. Notwithstanding any provision contained in this section, a license shall be subject to revocation or suspension without a hearing whenever such action is expressly authorized by other provisions of this chapter stating the effect of specified violations. (1985 Code, § 3-95, as replaced by Ord. #4691-19, June 2019 ***Ch12_6-20-20***)

8-321. Certificate of compliance--application--filing; contents.

(1) Each applicant for a certificate of compliance shall file with the city manager a completed form of application, on a form to be provided by the city manager, and which shall contain all of the following information:

(a) The name and street address of each person to have any interest, direct or indirect, in the license as owner, partner or stockholder or otherwise;

(b) The name of the liquor store to be operated under the license;

(c) The address of the liquor store to be operated under the license and the applicable zoning designation; and

(d) The agreement of each applicant to comply with the state, federal and city laws and ordinances and with the rules and regulations of the Tennessee Alcoholic Beverage Commission with reference to the sale of alcoholic beverages, and the agreement of each applicant as to the validity of and the reasonableness of the regulations, inspection fees and taxes provided in this chapter with reference to the sale of alcoholic beverages.

(2) The application form shall be accompanied by a copy of each questionnaire form and other material to be filed by the applicant with the Tennessee Alcoholic Beverage Commission in connection with this same

application, and shall also be accompanied by five (5) copies of a scale plan drawn to a scale of not less than one inch equals twenty feet (1" = 20'), giving the following information:

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

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

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

(d) The identification of every parcel of land within one hundred feet (100') of the lot upon which the liquor store is to be operated indicating ownership thereof and the locations of any structures situated thereon, and the use being made of every such parcel. The application form shall be signed and verified by each person to have any interest in the license either as owner, partner or stockholder or otherwise. If at any time the applicable state statutes should be changed so as to dispense with the requirement of a certificate of compliance, no original or renewal license shall be issued until an application in the same form has been filed with the city recorder. (1985 Code, § 3-96, as replaced by Ord. #4691-19, June 2019 ***Ch12_6-20-20***)

8-322. Certificate of compliance--misrepresentation; concealment of fact. If any applicant misrepresents or conceals any material fact in any application form filed for the purpose of complying with the requirements contained in § 8-322, such applicant shall be deemed to have violated the provisions of this chapter. (1985 Code, § 3-108, as replaced by Ord. #4596-15, March 2016, and Ord. #4691-19, June 2019 ***Ch12_6-20-20***)

8-323. Certificate of good moral character--consideration. In making the initial certification of good moral character for the first six (6) persons, firms or corporations, the board of commissioners will consider all applications filed before a closing date to be fixed by it and select from such applications the persons by it deemed to have the qualifications required by law and the most suitable circumstances for the lawful conduct of the business for which they seek licenses, without regard to the order or time in which applications are filed. (1985 Code, § 3-109, as replaced by Ord. #4596-15, March 2016, and Ord. #4691-19, June 2019 ***Ch12_6-20-20***)

8-324. Certificate of compliance--restriction upon issuance.

(1) The mayor and the board of commissioners are authorized to refuse to consider the issuance of a certificate of compliance whenever the number of

such previously issued and outstanding certificates of compliance, when added to the number of outstanding licenses, equals or exceeds the number of licenses authorized by this chapter.

(2) No certificate of compliance shall be issued unless a license issued on the basis thereof can be exercised without violating any provision of this chapter.

(3) No member of the board of commissioners shall sign any certificate of compliance for any applicant until:

(a) Such applicant's application has been filed with the city recorder;

(b) The location stated in the certificate has been approved by the board of commissioners as a suitable location for the operation of a liquor store; and

(c) The application has been considered at a meeting of the board of commissioners and approved by the vote of at least three (3) members thereof. (1985 Code, § 3-110, as replaced by Ord. #4691-19, June 2019 ***Ch12_6-20-20***)

8-325. <u>Deleted</u>. (1985 Code, § 3-111, as replaced by Ord. #4596-15, March 2016, and deleted by Ord. #4691-19, June 2019 ***Ch12_6-20-20***)

CHAPTER 4

PRIVILEGE TAX FOR CONSUMPTION ON PREMISES

SECTION

8-401. Definition. Definition. The term "alcoholic beverages," for the purpose of this chapter, shall mean whiskey, wine, rum, gin and all other alcoholic beverages, as defined by the provisions of Tennessee Code Annotated, § 57-3-101. (1985 Code, § 3-128, as replaced by Ord. #4691-19, June 2019 ***Ch12_6-20-20***)

8-402. Consumption on premises; privilege taxes levied. (1) It is hereby declared that every person is exercising a taxable privilege who engages in the business of selling at retail in this city alcoholic beverages for consumption on the premises. For the exercise of such privilege, the following taxes are levied for city purposes to be paid annually, to wit:

(a)	Private club	$ 300.00
(b)	Hotel and motel	1,000.00
(c)	Restaurant, according to seating capacity, on licensed premises:	
	75 to 125 seats	600.00
	126 to 175 seats	750.00
	176 to 225 seats	800.00
	226 to 275 seats	900.00
	276 seats and over	1,000.00

(2) The privilege tax levied by this section shall be remitted annually to the city treasurer, no later than December thirty-first (31st) of each year.[1]

(3) During the event of a state-wide pandemic which exceeds twelve (12) months in continual duration, as identified by the Governor for the State of Tennessee through Executive Orders, and where the State of Tennessee has issued guidance encouraging a reduction in seating capacity of restaurants during said pandemic, the seating capacity of restaurants subject to the tax levied pursuant to this ordinance shall be assessed at the rate of the seating capacity immediately proceeding said restaurants' current seating capacity (i.e. restaurants with a seating capacity between seventy-five and one hundred twenty-five (75-125) will not be assessed a tax; restaurants with a seating capacity between one hundred twenty-six and one hundred seventy-five

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[1]State law reference
Tennessee Code Annotated, § 57-4-301.

(126-175) will be assessed a tax of six hundred dollars ($600.00) instead of seven hundred fifty dollars ($750.00); restaurants with a seating capacity of one hundred seventy-six to two hundred twenty-five (176-225) will be assessed a tax of seven hundred fifty dollars ($750.00) instead of eight hundred dollars ($800.00); restaurants with a seating capacity of two hundred twenty-six to two hundred seventy-five (226-275) will be assessed a tax of eight hundred dollars ($800.00) instead of nine hundred dollars ($900.00); and, restaurants with a seating capacity over two hundred seventy-six (276) will be assessed a tax of nine hundred dollars ($900.00) instead of one thousand dollars ($1,000.00). Said "pandemic period privilege taxes" shall be expressly named as such on any notices and/or correspondence from the city. Said taxes shall be remitted to the city treasurer no later than December 31 during each calendar year for which any portion of a pandemic has occurred. (1985 Code, § 3-129, as replaced by Ord. #4691-19, June 2019 ***Ch12_6-20-20***, and amended by Ord. #4765-21, March 2021 ***Ch13_05-06-21***)

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.

CHAPTER

CHAPTER 1

LICENSES AND BUSINESS REGULATIONS

SECTION

9-101. Applicability of state law. For the use and benefit of the city, the taxes provided for in Chapter 387 of the Public Acts of Tennessee of 1971, known as the "Business Tax Act," are hereby enacted, ordained, imposed, levied and assessed and shall be paid, collected and enforced on the businesses, business activities, vocations and occupations carried on in the city at the maximum rates and in the manner prescribed by such act. (1985 Code, § 14-1)

9-102. Sundays. Except where prohibited by law or this code, it shall be lawful to carry on any business, trade, vocation, occupation, profession or calling within the city on the first day of the week as may be lawfully done on any other day of the week, subject, however, to all presently applicable restrictions on the hours of intoxicating liquors and/or intoxicating drinks as defined in Tennessee Code Annotated, § 57-2-101 and beer and alcoholic beverages containing alcoholic content of five (5) percent or less as defined in Tennessee Code Annotated, §§ 57-2-101 and 57-3-101.[1] (1985 Code, § 14-2)

[1]Municipal code reference
Alcoholic beverages and beer: title 8.

CHAPTER 2

AMUSEMENTS

SECTION

9-201. Shooting galleries. (1) All shooting galleries operated within the city shall have a steel back stop of at least three-sixteenths of an inch in thickness, and shall have wings extending forward from the target board at least six (6) feet, which wings shall be made of three-sixteenths of an inch sheet steel, or one-inch solid boards. The top shall be covered with one-inch solid board.

(2) The counter shall not be less than thirty-five (35) feet from the back stop or target board.

(3) Rifles of greater than twenty-two (22) caliber shall not be used in any shooting gallery operated within the city, and such rifles shall be loaded only with twenty-two-caliber short cartridges.

(4) All shooting galleries operated within the city shall be housed in brick buildings, which buildings shall have solid brick walls of not less than eight (8) inches in thickness, the rear wall of which buildings shall have solid brick walls, without openings for doors or windows. If the second floor of any building in which a shooting gallery is operated within the city is occupied, the back stop or target board shall be covered with sheet steel, which shall be not less than three-sixteenths of an inch thick.

(5) No shooting gallery shall be operated within the city by any person under twenty-one (21) years of age. (1985 Code, § 14-19)

9-202. X-Rated films. It shall be unlawful for any person to exhibit for public consumption, whether or not such exhibition is for compensation, any motion picture, film, movie or videotape which is rated "X" by a recognized movie rating authority or which depicts sexual conduct as defined in Tennessee Code Annotated, § 39-6-1101 unless such exhibition is within a theater auditorium or other enclosed area which effectively removes such exhibition from the view of members of the public who are not voluntarily engaged in viewing such motion picture, film, movie or videotape. (1985 Code, § 14-20)

CHAPTER 3

POOLROOMS

SECTION

9-301. Permitting minors to play. It shall be unlawful for any proprietor, owner or manager of any bagatelle, poolroom, or billiard room within the city to permit any person under the age of eighteen (18) years to play bagatelle, pool, billiards or any other game played on pool tables, unless such proprietor, owner or manager shall have in his possession and on file, for inspection by the law enforcement officers, a written permit for such minor to play at such game, signed by the parent or guardian of such minor, and the signature of such parent or guardian witnessed in writing, or otherwise certified to be genuine by the recorder. (1985 Code, § 14-32)

9-302. Persons under eleven years of age. It shall be unlawful for any person under the age of eleven (11) years to remain or loiter in any room or place referred to in § 9-301 without the written permit required in such section. (1985 Code, § 14-33)

9-303. Family recreation businesses. Businesses engaged exclusively in family recreation which neither sell nor permit alcoholic beverages on the premises and which have an adult supervisor or manager present at all times the business is open and which are designed in such a way so as to permit visibility from the exterior along the main entrance of said establishment are exempt from this chapter. (1985 Code, § 14-34)

CHAPTER 4

PEDDLERS AND SOLICITORS

SECTION

9-401. Privilege declared. It shall be a privilege for any person to go upon, travel upon or otherwise use any of the public sidewalks, streets, roads, alleys or other public property of the city, for the purpose of , and while engaged in the business of, soliciting orders for merchandise, printed matter, pictures or other property, or making contracts for the future delivery of same in sale to the ultimate purchaser, user or consumer of such merchandise**,** printed matter or other property; provided, however that this chapter shall not apply to regularly licensed insurance agents or hucksters or peddlers paying privilege taxes as otherwise provided by law, nor to traveling salesmen of wholesalers and jobbers selling merchandise to retail merchants or dealers or other wholesalers or jobbers, nor to representatives of retail merchants of the city nor to persons engaged in selling or soliciting orders for Bibles, religious songbooks or religious papers, magazines, periodicals or other religious literature of whatsoever kind; provided further, that such persons shall sell only religious books or periodicals. (1985 Code, § 14-51)

9-402. Applicability to farmers, etc. Section 9-401 shall not apply to farmers or truck growers taking orders for future delivery of products of farms, gardens or orchards, grown or raised by such farmers or truck growers; neither shall the provisions of such sections apply to any person who manufactures, makes, grows, raises or produces the article, merchandise or product he offers for sale; provided, however, that such person shall personally manufacture, make, grow, raise or produce by hand labor the article or merchandise he offers for sale. (1985 Code, § 14-52)

9-403. Peddling within fire district. No person shall peddle, sell or offer for sale, at retail, any fruits, vegetables, melons, produce, wood, coal or anything from trucks, wagons, carts or other vehicles, upon the sidewalks, streets, alleys, parkways, or public property of the city (except as allowed by § 16-105(2) of this code or at a marketplace or farmers' market designated or allowed as such on public property of the city), within the fire limits or fire district of the city. (1985 Code, § 14-53, as replaced by Ord. #4553-14, Aug. 2014)

CHAPTER 5

MASSAGE PARLORS[1]

SECTION

9-501. Definitions. As used in this chapter, unless the context otherwise requires:

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

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

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

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[1]State law reference

Massage Licensure Act of 1995: Tennessee Code Annotated, § 63-18-201, et seq.

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

(5) "Outcall massage" means massage performed only by a licensed massager when performing massages at a location other than the address of a licensed massage parlor.

(6) “Permittee” means the individual, partnership, association, joint stock company, corporation or combination of individuals of whatever form or character, that is the legal holder of a massage parlor permit as provided by this chapter. (1985 Code, § 14-70, as amended by Ord. #2604, Dec. 1986)

9-502. Penalty. Any person violating any of the provisions of this chapter shall, upon conviction thereof, be fined fifty dollars ($50.00) for each violation, and each day of violation of any provision of this chapter shall constitute a separate violation. (1985 Code, § 14-71)

9-503. Right of entry for inspection. The chief of police or his duly authorized representative is hereby authorized to enter, examine and survey any premises in the city for which a massage permit has been issued pursuant to this chapter during business hours to enforce the provisions of this chapter. (1985 Code, § 14-72)

9-504. Register of patrons. Every permittee shall maintain a daily register, showing the names and addresses of all patrons, along with the name of the massagers assigned and the fee charged. The daily register shall be kept in a permanent, well bound book; it shall be kept on file for at least one (1) year. (1985 Code, § 14-73)

9-505. Standards for premises. No massage parlor shall be operated, established or maintained in the city that does not comply with the following minimum standards:

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

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

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

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

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

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

(7) All walls, ceilings, floors, pools, showers, bathtubs, steam rooms and all other physical facilities shall be in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms, or steam or vapor cabinets, shower compartments and toilet rooms shall be throughly cleaned each day the business is in operation. Bathtubs and showers shall be throughly cleaned after each use. When carpeting is used on the floors, it shall be kept dry.

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

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

(10) Animals, except for seeing-eye dogs, shall not be permitted in the massage work areas. (1985 Code, § 14-74)

9-506. Unlawful acts. (1) It shall be unlawful for any person in a massage parlor to place his or her hand upon or to touch with any part of his or her body, or to fondle in any manner, or to massage a sexual or genital part of any other person. Sexual or genital parts shall include the genitals, pubic area, buttocks, anus or perineum of any person, or the vulva or breast of a female.

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

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

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

(5) Massagers issued permits under this chapter may not administer massages at any places other that at a massage parlor which has also been issued a permit hereunder, except when performing outcall massages in strict compliance with § 9-508.

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

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

(8) The administering of massages shall not be conducted in private rooms or areas but shall be conducted in separate general areas for males and females.

(9) It shall be unlawful for any establishment subject to licensing under this chapter to advertise on the premises or near the premises except that each establishment may maintain two (2) signs which shall not be larger than two (2) feet by three (3) feet nor shall the same be illuminated in any manner. (1985 Code, § 14-75, as amended by Ord. #2604, Dec. 1986)

9-507. When massages may not be administered. No massager shall administer a massage at a massage parlor if the massager knows or should know that he or she is not free of any contagious or communicable disease; nor shall a massager administer a massage at a massage parlor to any patron exhibiting any skin fungus, skin infection, skin inflammation or skin eruption, unless the patron presents a statement from a physician licensed by the state certifying that the patron may be safely massaged and prescribing the conditions therefor. Each massager shall wash his or her hands in hot running water, using a proper soap or disinfectant, before and after the administration of each massage. (1985 Code, § 14-76)

9-508. Outcall massages. Outcall massages shall be allowed by any licensed massager, provided that all of the following conditions are met:

(1) Outcall massages shall be performed only by licensed massagers;

(2) The police department shall be given notice of at least twenty-four (24) hours in advance of the scheduled outcall massage;

(3) Outcall massages shall be recorded in a daily register as described elsewhere in these sections;

(4) All other requirements of this chapter must be complied with, except that the premises where an outcall massage is being performed shall not be required to maintain equipment for disinfecting and sterilizing nondisposable instruments or materials used in administering such massages. (Ord. #2604, Dec. 1986)

9-509. Permits Required. It shall be unlawful for any person to establish, maintain or operate a massage parlor in the city without a valid permit issued pursuant to this chapter; it shall be unlawful for any person to perform the services of a massager at a massage parlor in the city without a valid permit issued pursuant to this chapter. (1985 Code, § 14-88)

9-510. Massage parlor permit-application procedure.

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

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

(3) Contents of application. The application shall include a business, occupation or employment history of the applicant for the five (5) years immediately preceding the date of the application. It shall also include the detailed statement of any and all convictions, pleas of nolo contendere, forfeitures, adverse adjudications or proceedings suffered by the applicant (if the applicant is a partnership or association, any partner or member thereof; or if the applicant is a corporation, any officer, director or manager thereof, or any shareholder thereof) on any charge of prostitution, assignation, pandering, obscenity, lewdness, keeping and maintaining a disorderly house, frequenting a disorderly house, disorderly conduct, adamitism, anilingus, cunnilingus, coprophilia, fellatio, flagellation, frottage, masturbation, sodomy or urolagnia as proscribed by § 11-301 of this code, or any provision of any similar law or ordinance in any other jurisdiction, or any law or ordinance which is a felony or involves moral turpitude.

(4) Fingerprinting; photographs. The recorder shall arrange to have the fingerprints of each applicant taken by the police department, which fingerprints shall constitute a part of the application. There shall be filed with the application at least two (2) portrait photographs of the applicant (or the partners, members, managing officers or representatives otherwise of the applicant) taken within sixty (60) days immediately prior to the date of application, which photographs shall be not less than two (2) inches by two (2) inches and shall show the head and shoulders of the applicant in a clear and distinguishable manner.

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

(a) The court records of the applicant;

(b) Communication with the employers, business associates or fellow employees of the applicant during five (5) years next preceding the investigation;

(c) Determination of whether the premises proposed to be utilized by the applicant comply with the provisions of this chapter and

all zoning ordinances and building, fire, plumbing and electrical codes; and

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

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

(7) Review of report; scheduling of hearing. Upon receipt of the report of the chief of police, the recorder and the city manager shall review and docket the application on the agenda of the next regular meeting of the board of commissioners, at which time a hearing shall be conducted on the application. Notice of the time and place of the hearing before the board shall be posted in a conspicuous place upon the premises specified in the application at least five (5) days prior thereto, and the applicant shall maintain said notice in readable condition, on open, public display until after the hearing. The board, after a consideration of the application and investigative report, after an open examination of the applicant, after opportunity has been given for introduction of additional information by any interested person, and after a full and complete consideration of all relevant facts and circumstances, shall authorize the issuance of a massage parlor permit at the premises designated in the application within one (1) week following the hearing, unless it finds that the application is deficient; the application contains false information; the applicant has not complied with all applicable laws or ordinances; the applicant has been convicted, pleaded nolo contendere or suffered a forfeiture on a charge of prostitution, assignation, pandering, obscenity, lewdness, keeping and maintaining a disorderly house, frequenting a disorderly house, disorderly conduct, adamitism, anilingus, bestiality, cunnilingus, coprophilia, fellation, flagellation, frottage, masturbation, sodomy or urolagnia as proscribed by § 11-301 of this code; or any provision of any similar law or ordinance in any jurisdiction, or any law or ordinance which is a felony or involves moral turptitude.

(8) Additional requirements. The board of commissioners shall not authorize the issuance of a permit to an applicant unless the proposed premises for the establishment, maintenance or operation of a massage parlor are within a proper zone according to the zoning ordinance of the city. No person shall operate or receive a permit to operate a massage parlor unless such person or applicant or the manager of said applicant shall meet the same qualifications as are required of a massager and in addition thereto shall have acquired an advanced course of training in the art or science of massaging from an accredited school of instruction as further specified in § 9-511. (1985 Code, § 14-89)

9-511. Permit- suspension. If the chief of police finds that the massage parlor for which the massage parlor permit was issued does not conform to this chapter or the permittee has refused the chief of police or his duly authorized representative the right to enter the premises to enforce the provisions of this chapter, the chief of police may temporarily suspend the massage parlor permit, pending a hearing before the board of commissioners. A copy of the temporary suspension shall be sent to the city manager for docketing on the next regular agenda of the board, and sent addressed to the permittee at his place of business by certified mail, which shall set forth the reason for said suspension. No person shall operate a massage parlor when subject to an order of suspension. The board of commissioners may, after an open hearing, reinstate a suspended massage parlor permit when no fact or condition exists which would otherwise warrant the refusal to grant a massage parlor permit under the terms of this chapter. (1985 Code, § 14-90)

9-512. Individual massager permits. (1) Application form; fee. Any person desiring a permit to act as a massager in a massage parlor in the city shall make application to the recorder on an application form provided by the city, which application form shall contain spaces for the applicant's name, address, telephone number, all previous addresses within the year immediately preceding the date of application, date of birth, place of birth, height, weight, massage training and current employment. Each massager permit application shall be accompanied by an investigation fee of twenty-five dollars ($25.00).

(2) False statements on application; conviction, etc; record The application shall state thereon that "It is unlawful for any person to make a false statement on this application. The making of a false statement shall constitute grounds for denial of an application or revocation of a permit." The application shall also include a detailed statement of any and all convictions, pleas of nolo contendere or forfeitures suffered by the applicant on any charge of prostitution, assignation, pandering, obscenity, lewdness, keeping and maintaining a disorderly house, frequenting a disorderly house, disorderly conduct, adamitism, anilingus, bestiality, cunnilingus, coprophilia, fellatio, flagellation, frottage, masturbation, sodomy or urolagnia as proscribed by § 11-301 of this code, or any provision of this chapter, or any provision of any similar law or ordinance in any other jurisdiction, or any law or ordinance which is a felony or involves moral turptitude.

(3) Fingerprinting. The chief of police shall arrange to have the fingerprints of each applicant taken, which fingerprints shall constitute a part of the application.

(4) Physician's certification. Every person who desires to act as a massager at a massage parlor in Johnson City shall attach to his or her application a certification from a physician currently licensed by the state that the applicant has submitted to a physical examination for contagious and communicable diseases, and that the applicant is either free from any

contagious or communicable diseases or is incapable of communicating any such diseases to others. The physical examination shall include a recognized blood test for syphilis, a culture for gonorrhea, and a chest X-ray which shall be made and interpreted by a trained radiologist.

(5) Investigation. Upon receipt of the application and investigation fee, the recorder shall refer the same to the chief of police, who shall make or cause to be made an investigation of the applicant, which shall include:

(a) The criminal record of the applicant;

(b) Communication with the employers, business associates, fellow employees of the applicant during the five (5) years next preceding the investigation;

(c) Referral of the medical examination submitted with the application to the city physician for review and comment; and

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

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

(7) Review of report; scheduling of hearing. Upon receipt of the report of the chief of police, the recorder and the city manager, if the report of the applicant shall be complete, shall docket the application on the agenda of the next regular meeting of the board of commissioners, which, after a consideration of the application and investigative report, after an open examination of the applicant and applicant's supporting evidence or witnesses, and after opportunity has been given for the introduction of additional information by any interested person, and following a full and complete consideration of all relevant facts and circumstances, shall authorize the issuance of a massager's permit within one (1) week following the hearing, unless it finds that the application is deficient; that the application contains false or misleading information; that the applicant has been convicted, has pleaded nolo contendere or suffered a forfeiture on a charge of prostitution, assignation, pandering, obscenity, lewdness, adamitism, anilingus, bestiality, cunnilingus, coprophilia, fellatio, flagellation, frottage, masturbation, sexual intercourse, sodomy or urolagnia as proscribed by § 11-301 of this code, or any provision of this chapter, or any provisions of a similar law or ordinance in any other jurisdiction.

(8) Follow-up testing. All massagers who possess valid permits for administering massages in a massage parlor in the city shall undergo physical examinations, including the aforementioned tests for contagious and communicable diseases, at least once every six (6) months following the issuance of their massager's permits. When the chief of police, the city recorder, the city manager or his duly authorized representative has cause to believe that the

massager is capable of communicating any contagious diseases to others, he may at any time require an immediate physical examination of any such person.

(9) Course of study. No person shall give or offer to give or hold oneself out to offer a massage or be licensed as a massager within the meaning of this chapter, or employ or engage as an independent contractor any massager who gives or offers to give or holds himself or herself out to offer a massage unless such person shall have satisfactorily completed a course or courses of study in body massage in an approved school of instruction or training which is accredited by, approved by or recognized by the American Massage and Therapy Association or a similar accrediting association. Said courses shall pertain to anatomy, physiology, hygiene, first aid, exercise therapy, massage techniques and related aspects of the art and science of massage or physical therapy. Such course of instruction or training shall include classroom or clinical training in therapeutic massage and reflexology techniques, classroom or clinical instruction or contraindications for massage, and classroom or clinical or laboratory instruction to develop a knowledge of anatomy and physiology of the systems of the body with emphasis on the muscular and skeletal systems. Such training shall pertain to understanding of the benefits of massage, and assist the student in developing an awareness of massage as a therapeutic process through a period of one (1) year's supervised or clinical training in the art and science of massage and physical therapy. (1985 Code, § 14-91)

9-513. Permit display. (1) Every permittee to whom a massage parlor permit shall have been granted shall display said permit in a conspicuous place in the massage parlor or establishment so that it may be readily seen by persons entering the premises.

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

(3) No permit shall be altered or defaced in any manner by any permittee or massager. (1985 Code, § 14-92)

9-514. Permit transfer. No permit issued under this chapter shall be transferable by operation of law or otherwise. (1985 Code, § 14-93)

9-515. Permit renewal. Each massage parlor permit shall expire one (1) year from the date if its issue; and each massager's permit shall also expire one (1) year from the date of issue. The application for renewal of either a massage parlor permit or massager's permit shall be accompanied by an investigative fee of ten dollars ($10.00). (1985 Code, § 14-94)

9-516. Permit revocation. (1) Any massage parlor permit or massager's permit granted under this chapter shall be revoked by the board of

commissioners, after notice of hearing, if the permittee or massager has been convicted, pleaded nolo contendere or suffered a forfeiture on any charge of prostitution, assignation, pandering, obscenity, lewdness, adamitism, anilingus, bestiality, cunnilingus, coprophilia, fellatio, flagellation, frottage, masturbation, sexual intercourse, sodomy or urolagnia as proscribed by § 11-301 of this code, or any provision of this chapter or any provision of a similar law or ordinance in any other jurisdiction.

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

(3) If any massager or other employee of any permittee violates any provisions of this chapter, it shall be presumed that such violation was with the knowledge and consent of the permittee; if any permittee fails to overcome said presumption, the massage parlor permit issued to him shall be subject to permanent revocation in the manner set out in this section. (1985 Code, § 14-95)

CHAPTER 6

BARBERS[1]

SECTION

9-601. Definitions. For the purposes of this chapter, the following words and phrases shall have meanings respectively ascribed to them by this section:

(1) "Barber." Any person who engages in any one (1) or any combination of the following practices, when done for payment, directly or indirectly, or without payment, for the public generally:

(a) Shaving or trimming the beard;

(b) Cutting or styling the hair;

(c) Giving facial and scalp massages or treatments with oils, creams, lotions, or other preparations either by hand or mechanical appliances;

(d) Singeing, curling, shampooing, coloring, bleaching or straightening the hair or applying hair tonics;

(e) Cutting, fitting, measuring and forming head caps for wigs or hair pieces; or

(f) Hair weaving, excluding medical or surgical procedures.

(2) "Barbershop." Any place where the work or business of a barber is done. (1985 Code, § 14-112)

9-602. Inspection. The health officer shall have the right during business hours to inspect any barbershop for the purpose of determining whether or not any violation of this chapter exists. (1985 Code, § 14-113)

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[1]State law reference

Municipal regulation of barbers: Tennessee Code Annotated, § 62-3-131.

9-603. Sign required. There shall be displayed in front of every barbershop operated in the city a sign indicating that it is a barbershop. (1985 Code, § 14-114)

9-604. View of interior to be unobstructed. It shall be unlawful for any person to operate, maintain or conduct a barbershop or do any barbering business in any building in which or to which the full view of any part thereof to the interior is obstructed by the use of blinds, shades, screens, painted or frosted glass or any other device or means used to, or which will, prevent a free and unobstructed view of such barbershop and all parts thereof from the exterior of the same. (1985 Code, § 14-115)

9-605. Sanitation. (1) Infectious, etc., diseases. No barber shall practice in the city who is infected with the germ of, or suffering from the effects of, one (1) or more of the following diseases: tuberculosis, influenza, coryza, gonorrhea, syphilis, cancer, smallpox, chicken pox, measles, whooping cough, scarlet fever, septic sore throat, eczema, scabies, pediculosis, leprosy, pemphygus, psoriasis, favus, scrofulosis, lupus, tinea or other diseases capable of being communicated from person to person.

(2) Cleanliness, ventilation, etc. Every barbershop, its furniture, equipment, tools, utensils, floors, walls and ceilings shall, at all times, be kept in a clean and sanitary condition, well lighted and well ventilated; hot and cold running water must be provided in each establishment. The dipping of towels, mugs, tools or utensils of any kind in hot or cold water tank is prohibited. Cuspidors shall be cleaned every day and a disinfectant solution left in them at all times.

(3) Hand washing, etc. Any barber or employee in a barbershop whose work causes him to touch the skin of a person shall wash his hands with soap and water before beginning work on any other person.

(4) Receptacles, etc. At least two (2) receptacles must be provided in each barbershop, in one (1) of which shall be deposited shaving papers, and used towels in the other. Shaving mugs and brushes shall be thoroughly washed with hot water, the temperature of which is not less than two hundred (200) degrees Fahrenheit before each patron is served. A towel used on one (1) patron shall not be used again on another patron until relaundered.

(5) Head and neck sanitation. The head rest on each chair must be provided with a clean towel or sheet of clean paper for each patron. A strip of clean sanitary material must be placed around the patron's neck so that the chair does not come in contact with the neck.

(6) Bathrooms, razors, utensils, etc. All baths, bathrooms, toilets and other adjoining rooms in a barbershop shall be kept clean and in a sanitary condition. Bathtubs and basins shall be thoroughly cleaned after each patron's use. Individual soap and clean towels shall be given to each patron. No brushes, sponges or wash rags shall be left in bathrooms for the use of patrons.

The use of powder puffs, finger bowls, sponges and styptic pencils is prohibited. Razors, scissors, tweezers, combs, rubber discs and parts of vibrators and all other utensils, appliances or anything that comes in contact with the head, face or neck must be immersed in boiling water or in a disinfectant solution and placed in a compartment until used again.

(7) Sterilization of instruments, etc. All instruments and articles used in rendering of any service by any person engaged in the business of barbering within the city shall be thoroughly cleaned and sterilized before applying and using same in the performance of any service to any individual and this shall include all instruments, towels, combs and brushes and every other article used in the performing or administering of any service to any individual customer. (1985 Code, § 14-116)

9-606. Hours and days of operation--generally. It shall be unlawful for any barbershop or place of barbering business located within the city or for any person engaged in the practice of barbering to open such barbershop, barbering business or barbering place of business or to engage in the practice of or do any barbering work prior to 8:00 A.M., and it shall be unlawful for any such person engaged in the practice of barbering to remain open for business or to accept or do any act of service pertaining to any barbering business at such place after 6:00 P.M. on any day except Saturdays and on days immediately preceding any national holiday and on such last named days it shall be unlawful for any barbershop or barbering business engaged in the practice of barbering, to do any act of service pertaining to such business after 8:00 P.M. (1985 Code, § 14-117)

9-607. Hours of operation on Sunday. No work of a barber shall be carried on on Sunday. (1985 Code, § 14-118)

CHAPTER 7

JEWELRY AUCTIONS

SECTION

9-701. Applicability. This chapter shall not apply to judicial sales or sales by executors and administrators, receivers or assignees in insolvent and bankrupt estates. (1985 Code, § 14-135)

9-702. Hours. It shall be unlawful for any person to conduct any auction sale of diamonds and other precious and semiprecious stones or imitation thereof, watches, clocks, jewelry, gold, silver or plated ware, chinaware and other merchandise of like kind, between the hours of 6:00 p.m. and 8:00 a.m. (1985 Code, § 14-136)

9-703. Articles tagged or labeled--generally. It shall be unlawful for any person to offer for sale or sell diamonds and other precious and semiprecious stones, or imitations thereof, watches, clocks, jewelry, gold, silver or plated ware, chinaware and other merchandise of like kind, unless there is securely attached to each of such articles a tag or label upon which shall be plainly written or printed, in English, a true and correct statement of the kind and quality of the metal of which such article is made or composed and the percentage or karat of the purity of such metal; and in case such articles are plated or overlaid, then such tag or label shall contain a true statement of the kind of material or metal covered; and when precious or semiprecious stones are offered for sale or sold, such written statement shall set forth the true name, weight, quality and fineness of such stones, and imitations shall be described as such; and when watches and clocks are sold, the true names of the manufacturers shall be stated in writing. No part of the movements or mechanism shall be substituted or contain false and misleading names or trade marks, nor shall second or old movements be offered for sale in new cases, without a true statement to that effect. (1985 Code, § 14-137)

9-704. Articles tagged or labeled-delivery to purchaser. The tags or labels required by § 9-703 shall remain securely attached to any such article or merchandise and shall be delivered to the purchaser as a true and correct description and representation of the article sold. (1985 Code, § 14-138)

9-705. "<u>Cappers", "boosters"; false bids</u>. It shall be unlawful for any person to act, or to employ another to act, as a by-bidder or what is commonly known as a "capper" or "booster" at any auction sale under this chapter, or to make or accept any false or misleading bid, or to pretend to buy or sell any such articles sold or offered for sale at any auction. (1985 Code, § 14-139)

CHAPTER 8

PAWNBROKERS, SECONDHAND DEALERS[1]

SECTION

9-801. Applicability. This chapter shall apply not only to dealers in used or secondhand personal property but shall apply also to pawnbrokers or other persons taking such properties in pledge or pawn or otherwise as security for indebtedness. (1985 Code, § 14-156)

9-802. Purchasing, pawning, etc., property from minors. It shall be unlawful for any person affected by this chapter to take in pawn or pledge any property from persons under eighteen (18) years of age. A person engaged in business as a dealer in used or secondhand personal property and not also engaged in the business of taking properties in pledge or pawn may purchase property from persons under eighteen (18) years of age, provided that all other provisions of this chapter are complied with. (1985 Code, § 14-157)

9-803. Registration of articles pawned or purchased--required. It shall be the duty of all pawnbrokers and dealers in second-hand automobile tires and accessories and dealers in secondhand wearing apparel or other personal property, each to keep a well bound book, in which every article taken by them in pawn or purchased by them shall be registered giving a sufficient description of such article clearly to identify same. (1985 Code, § 14-158)

9-804. Registration of articles pawned or purchased--description. All persons affected by this chapter shall furnish the best possible description of the property purchased by them; it being required that such description shall include the serial number or other identification number or any letters, words or markings of any nature intended to furnish or furnishing a description or part of the description item so reported. (1985 Code, § 14-159)

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[1]State law reference

Pawnbrokers Act of 1988: Tennessee Code Annotated, § 45-6-201, et seq.

9-805. Registration of articles pawned or purchased--inspection. The book or register required by § 9-803 shall be kept in the place of business of the pawnbroker or secondhand dealer and shall at all times be open for inspection by the chief of police or any police officer of the city or by any interested private citizen; the purpose of this chapter being to aid in curbing theft and aid in the recovery of stolen property. (1985 Code, § 14-160)

9-806. Waiting period prerequisite to selling, etc., certain articles. All articles by pawnbrokers or secondhand dealers in pawn or purchased shall not be sold or resold until they have been in the possession of such persons for a period of at least ten (10) days. (1985 Code, § 14-161)

CHAPTER 9

JUNK DEALERS, JUNKYARDS[1]

SECTION

9-901. Definitions. For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

(1) "Junk" shall mean any motor vehicle, machinery, appliance, product or merchandise with parts missing, or scrap metal, or other scrap materials that are damaged, deteriorated or that are in a condition which prevents their use for the purpose for which they were intended.

(2) "Junk dealer" shall mean any person, in any way acquiring, buying, selling, exchanging, trading or dealing in scrap iron, brass, secondhand metals or parts of any sort.

(3) "Junkyard" shall mean any open or uncovered land on which dilapidated automobiles, rags, old papers, boxes, barrels or other used articles defined as junk herein are assembled for purposes of trade. (1985 Code, § 14-178, as amended by Ord. #4518-13, Feb. 2014)

9-902. Fire district. It shall be unlawful for any person to keep, operate or maintain a junkyard within the limits of any fire district of the city. (1985 Code, § 14-179)

9-903. Dealers--record of purchases. Every junk dealer in the city shall keep a book in which shall be entered the names of all persons from whom he buys or gets scrap iron, brass or other materials of any sort, followed by the date of purchase, the amount paid therefor, the kind of metal purchased or gotten and the number of pounds of each kind. Such entries shall be made in chronological order from day to day, as the business is transacted, and such books shall be at all times open to inspection of the police or other officer, or any

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[1]State law reference

Junk dealers: Tennessee Code Annotated, § 62-9-101, et seq.

Local regulation of junkyards: Tennessee Code Annotated, § 54-20-122.

person who may desire to see the same; and shall be in good faith kept and preserved by each dealer for convenient inspection. (1985 Code, § 14-180)

9-904. Dealers--scrap brass, copper, etc., segregated. Every junk dealer shall keep on hand and in separate packages, and not allowed to be mixed or confused with other purchases, in order that identification may be easy, all scrap brass, copper, lead and all other metals (except scrap iron and castings) bought or gotten from any person, the same to be kept separate and subject to easy and convenient inspection of any person desiring to investigate, for a period of not less than ten (10) days after the purchase or in any way acquired. (1985 Code, § 14-181)

9-905. Dealing with minors; identification. (1) No person shall purchase or receive, in any way, any scrap brass, copper, lead or other metals from any minor under sixteen (16) years of age, whether the same are gotten directly from or through or by aid of such minor.

(2) Junk dealers shall deal only with persons sixteen (16) years of age or over who are to them personally known, or of whose identification they are certain, and shall promptly give to any officer or other person inquiring about them information to enable the seller to be identified. (1985 Code, § 14-182)

9-906. Location; visibility of junk. It shall be unlawful for any person to keep or store junk, as defined in § 9-901, in the city, unless such junk is located in a zone allowing the storage of such junk, and only then if such junk is stored in such a manner as to not be visible from adjacent property, including public streets. In no event shall it be lawful for any person to allow junk, as defined in this chapter, to accumulate on any property not properly zoned for the storage of junk. Nothing contained in this section shall be construed to prevent persons who repair motor vehicles, appliances, etc., from accumulating unserviceable articles left with them in the normal course of their business, provided, however, such unserviceable articles shall not be visible from adjoining property. (1985 Code, § 14-183)

CHAPTER 10

FORTUNETELLERS

SECTION

9-1001. Privilege. It is declared to be a privilege for any person to engage in the business or vocation of a fortuneteller, clairvoyant, hypnotist, spiritualist, palmist or phrenologist in the city. (1985 Code, § 14-200)

9-1002. Annual tax--generally. (1) Each person before exercising any privilege mentioned in § 9-1001, shall pay a city privilege tax of five hundred dollars ($500.00), per annum to the city recorder-treasurer, which privilege tax shall be paid annually, in advance.

(2) The taxes provided in this chapter shall be levied and collected as other privilege taxes, and one (1) full year's tax on such privilege shall be paid in advance. Neither this chapter, nor the imposition of any tax hereunder shall be construed to operate as a release or exemption from any other privilege tax required by law. This chapter shall not be construed as repealing any section of this code, imposing a privilege tax, but shall be in addition thereto. (1985 Code, § 14-201)

9-1003. Annual tax collection; delinquency. It shall be the duty of each person exercising any privilege mentioned in this chapter to promptly pay the tax levied under the provisions hereof when the same becomes due, and before engaging in any of the vocations mentioned; and in case any such tax is not promptly paid, a penalty of ten (10) per cent on the amount of delinquent tax for the first month's delinquency, or any fractional part thereof, shall be added and, thereafter, there shall be added one (1) per cent for each additional month or fractional part thereof of delinquency. Such penalty shall be on the total amount of tax delinquency and shall be collected for the use and benefit of the city. (1985 Code, § 14-202)

9-1004. Lien; distress warrants. The tax levied or imposed by § 9-1002 shall be a lien upon the property of the person exercising such privilege as in the case of ad valorem tax, and in case the tax herein levied or imposed shall become due and delinquent as provided, the city recorder shall issue a distress warrant for the collection of such tax principal, interest and penalty due from each such delinquent taxpayer, which distress warrant shall be served by the chief of police or any other police officer. (1985 Code, § 14-203)

CHAPTER 11

COAL AND COKE

SECTION

9-1101. Definitions. For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

(1) "Coal dealer." Any person of any kind or nature, trucking, hauling or otherwise distributing coal or coke from any source of supply except that of a licensed coal dealer, which coal is not being delivered for his own use, shall be deemed a coal dealer.

(2) "Retail sale." The sale of truck load or wagon load lots of coal, coke or other hard fuels where the weight of such load exceeds five hundred (500) pounds, to individuals, industries or consumers of any kind, and to cover the sale of such fuels in all cases except when sold to regularly licensed retail coal dealers in car load lots, or when purchased by individuals, industries, institutions or firms in car load lots for their own consumption. Should such persons purchase coal in wholesale lots and resell or distribute it to employees, friends, relatives or others, this shall be construed as a retail business and requires a retail license. (1985 Code, § 14-220)

9-1102. Scope. It is the purpose and intention of this chapter to cover the entire field pertaining to the regulation of the retail coal business and to exclusively regulate the same, distribution, weighing and delivering of coal, coke and other hard fuels within the city; provided, however, nothing herein contained shall be construed as relieving any retail coal dealer from paying the privilege taxes or licenses prescribed by the general revenue ordinances of the city. (1985 Code, § 14-221)

9-1103. Enforcement. The city manager or his designee is hereby vested with police power for the purpose of enforcing the provisions of this chapter. (1985 Code, § 14-222)

9-1104. License required. Any coal dealer as set out in § 9-1102 shall be liable to pay the required license fee and to conform to the requirements of this chapter. (1985 Code, § 14-223)

9-1105. License--prerequisites to issuance generally. Before a license shall be issued to any retail coal dealer, the applicant for license shall show that he possesses and owns proper equipment for the operation of such retail business, which must consist of a coal yard, reasonable storage facilities and office used expressly for such purposes, and not less than one (1) standard inspection wagon scale or truck scale of at least four (4) tons' capacity, and the same shall be located and maintained within the city. (1985 Code, § 14-224)

9-1106. License--issuance of stickers for trucks, etc. All licensed coal dealers, when applying to the city recorder for a license to engage in the retail coal business as provided in this chapter, shall file with the recorder a full description of the truck used by such retail coal dealer in the delivering of coal, coke or other hard fuels, such description to include the make, model, capacity and motor number of such trucks. Upon the listing of such trucks and simultaneously with the issuing of a license, the city recorder shall issue to each truck owner a plate or sticker, giving the name of the licensee, the make, model, motor number and capacity of the truck and the expiration date of the license. All retail coal dealers shall display such stickers or plates either on the windshields or at some other conspicuous place on their trucks so that the same may be easily seen by the city manager or his designee and by the general public. When any retail coal dealer exchanges a truck for another truck, then he may surrender the sticker or plate issued for the truck so exchanged to the city recorder and obtain a similar one for the new truck. The city recorder shall collect a fee of five dollars ($5.00) for each plate or sticker issued to the truck owner. (1985 Code, § 14-225)

9-1107. Discrimination by retail dealer. Licensees operating under the provisions of this chapter shall supply, without discrimination and to the best of their ability, the regular day-to-day demand for coal. (1985 Code, § 14-226)

9-1108. Weighing; delivery ticket. All drivers, licensees or other persons having charge of conveyances for the purpose of transporting coal, coke or other hard fuels intended for sale in the city, shall have in their possession when such vehicles are loaded with such coal, coke or other hard fuels within the city, a ticket in duplicate showing gross net and tare weights of the load.

Such weight tickets must be signed by the person weighing the load and must also show the location by the person weighing the load and must also show the location of the scale, the date of weighing and the name of the purchaser, and it shall be the duty of the driver to deliver to the purchaser, and it shall be the duty of the driver to deliver to the purchaser such duplicate copy of such weight ticket. The owner or driver of the vehicle shall be responsible for any charge or expense incident to such weighing. In the event any vehicle shall be loaded with coal, coke or other hard fuels before entering the city, when the same is intended to be sold within such city, the driver shall first weigh the gross load on an approved scale and, after making delivery of the load, shall return the empty vehicle to the same scale and have it weighed for the purpose of obtaining the net and tare weights and, after receiving a ticket showing such weights, shall deliver such ticket to the customer; provided, however, that if any such vehicle leaves the city empty and returns the same day to the city loaded with coal, coke or other hard fuels intended for sale in the city, it is permissible for the driver thereof to have the empty vehicle weighed before leaving the city and have the loaded vehicle weighed immediately upon re-entering the city later in the day. (1985 Code, § 14-227)

9-1109. Delivery ticket produced; verification of weight.

(1) When any person who has sold, peddled or agreed to deliver coal or coke within the city and such fuel is being delivered, the city manager or his designee, or any of the city's police officers, shall have the right to demand the production of the ticket provided for in § 9-1805 and on such demand being made, such seller or his agent or employee, or other person in charge of such fuel being delivered, shall immediately produce, exhibit and allow inspection of the ticket.

(2) Whenever any of the persons under this section making such demands shall further demand that the weight of the coal or coke being delivered as shown by such ticket be verified, it shall thereupon become the immediate duty of the person selling such coal or coke and of his agents, representatives or employees or other person in charge of such fuel being delivered, to convey such fuel immediately to the nearest and most convenient private scales officially tested so as to determine the net weight thereof, and thereafter as soon as such fuel has been delivered, the person representing the seller, or others, shall immediately return to the same scales where such conveyance and fuel were weighed together ans shall permit the conveyance and equipment which were used in the delivery of such fuel to be weighed, so as to ascertain the net weight of the fuel so sold and delivered; provided, however, that if requested, the privilege of reweighing such coal or coke, or the conveyance and equipment in which same was delivered on another and different scale from the person who demanded the verification of the weight of such fuel as provided, shall be granted on condition, however, that he is permitted to be present and inspect such reweighing. (1985 Code, § 14-228)

9-1110. Coal peddlers. (1) Any person operating a truck for sale of coal not covered as retail coal dealers, that is, delivering coal from any source not specified by this chapter, by truck, shall be defined as a coal peddler and shall have such coal weighed on an approved scale and deliver a copy of such scale ticket to the purchaser as provided for retail coal dealers.

(2) Nothing in this chapter shall apply to the peddler who buys from accredited dealers, and who shall have standard measures, and who shall sell by the bushel or fraction thereof. (1985 Code, § 14-229)

9-1111. Coal delivered over streets to be weighed. It shall be unlawful for any person to haul coal, coke or other hard fuels intended for sale in the city on and over any street, alley or roadway within the city unless the same has been weighed upon some scale approved and designated by the city manager or his designee. In the event any vehicle shall be loaded with coal, coke or other hard fuel before entering the city, then the driver of such vehicle shall have the load weighed as soon as the vehicle can be driven to an approved scale. (1985 Code, § 14-230)

9-1112. Brakes on vehicles hauling coal, etc. It shall be unlawful for any person to haul coal, coke or other hard fuels over the streets, alleys or roadways in the city unless the vehicle in which the same are being hauled shall have had its brakes inspected and approved within ten (10) days before such hauling, such inspection and approval to be by the city manager or his designee. (1985 Code, § 14-231)

9-1113. Delivering split loads after weighing. After having his load of coal, coke or other similar fuel weighed on an approved scale and receiving a weight ticket therefor, it shall be unlawful for any driver or licensee under this chapter to split such load and make delivery thereof to more than one (1) customer. (1985 Code, § 14-232)

CHAPTER 12

FOOD AND FOOD ESTABLISHMENTS[1]

SECTION

9-1201. Right of entry. All places in the city or its police jurisdiction where food products are stored, offered for sale or sold, shall be subject to inspection by the health officer, who shall have the right to enter such places for the purpose of inspecting the food products therein, and who shall condemn as unfit for human consumption any spoiled, tainted or unwholesome food, and dispose of the same as he may see fit. (1985 Code, § 11-1)

9-1202. Protection of food from contamination. (1) The owner, lessee or agent occupying any room, stall or place where food products are stored, offered for sale or sold, shall keep such room, stall or place and all appurtenances in a clean, wholesome condition, under such direction as may be given by the health officer.

(2) It shall be unlawful for any person to keep for sale any article of food for human consumption, unless the same is protected and screened from dust, flies and other insects. (1985 Code, § 11-2)

9-1203. Misrepresentation as to quality, wholesomeness. No food products shall be exchanged, labeled or representations made in respect thereto under a name or quality, or as being what the same is not, as regards wholesomeness, soundness, safeness or fitness, for human food or drink. (1985 Code, § 11-3)

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[1]State law reference

Food, Drug, and Cosmetic Act: Tennessee Code Annotated, § 53-1-101, et seq.

CHAPTER 13

RESTAURANTS

SECTION

9-1301. Definitions. For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

(1) "Employee" shall mean any person who handles food or drink during preparation or serving, or who comes in contact with any eating or cooking utensil, or who is employed in a room in which food or drink is prepared or served.

(2) "Health officer" shall mean the health officer of the city or his authorized representative

(3) "Itinerant restaurant" shall mean a restaurant operating for a temporary period in connection with a fair, carnival, circus, public exhibition or other similar gathering.

(4) "Restaurant" shall refer to a coffee shop, cafeteria, short order cafe, luncheonette, tavern, sandwich stand, soda fountain and all other eating or drinking establishments, as well as kitchens or other places in which food or drink is prepared for sale elsewhere.

(5) "Utensil" shall include any kitchenware, tableware, glassware, cutlery, utensils, containers or other equipment with which food or drink comes in contact during storage, preparation or serving. (1985 Code, § 11-20)

9-1302. Code adopted. The 1976 Edition of the United States Public Health Service Model Food Service Sanitation Ordinance, three (3) copies of which are on file at the city recorder's office, is hereby adopted by reference as if set out at length in this chapter. Any person who shall violate any provision of said ordinance shall be punished as provided in § 1-104. (1985 Code, § 11-21)

9-1303. Compliance. No restaurant shall be operated within the city, or its police jurisdiction, unless it conforms with the requirements of this chapter; provided, that when any restaurant fails to quality the health officer is authorized to suspend the permit. (1985 Code, § 11-22)

9-1304. License. Every person operating a restaurant in the city shall obtain an authorization form from the health officer signifying that the terms of this chapter have been complied with before he can purchase a city license. (1985 Code, § 11-23)

9-1305. Permit required. (1) It shall be unlawful for any person to operate a restaurant in the city who does not possess an unrevoked permit from the health officer. Such permit shall be posted in a conspicuous place.

(2) Only persons who comply with the requirements of this chapter shall be entitled to receive and retain such permit.

(3) A person conducting an itinerant restaurant shall secure a permit and may retain the same. (1985 Code, § 11-24)

9-1306. Permit--power of health officer to suspend or revoke; reinstatement. (1) The permit required by § 9-1305 may be temporarily suspended by the health officer upon the violation by the holder of any of the terms of this chapter or revoked after an opportunity for a hearing by the health officer upon serious or repeated violation.

(2) Any restaurant operator whose permit has been suspended may at any time make application for the reinstatement of the permit.

(3) Within one (1) week after the receipt of a satisfactory application, accompanied by a statement signed by the applicant to the effect that the violated provisions of this chapter have been conformed with, the health officer shall make a reinspection, and thereafter as many additional reinspections as he may deem necessary to assure himself that the applicant is again complying with the requirements and in case the findings indicate compliance, shall reinstate the permit. (1985 Code, § 11-25)

9-1307. Inspections--generally. (1) At least once every six (6) months the health officer shall inspect every restaurant located within the city. In case the health officer discovers the violation of any item of sanitation, he shall make a second inspection after the lapse of such time as he deems necessary for the defect to be remedied, and the second inspection shall be used in determining compliance with the requirements of this chapter. Any violation of the same item of this chapter on such second inspection shall call for immediate suspension of the permit.

(2) One (1) copy of the inspection report shall be posted by the health officer upon an inside wall of the restaurant, and such inspection report shall

not be defaced or removed by any person except the health officer. Another copy of the inspection report shall be filed with the records of the heath department.

(3) The person operating the restaurant shall upon request of the health officer permit access to all parts of the establishment and shall permit copying any or all records of food purchased. (1985 Code, § 11-26)

9-1308. Inspections--examination of samples of food, etc. Samples of food, drink and other substances may be taken and examined by the health officer as often as may be necessary for the detection of unwholesomeness or adulteration. The health officer may condemn and forbid the sale of, or cause to be removed or destroyed, any food or drink which is unwholesome or adulterated. (1985 Code, § 11-27)

9-1309. Control of communicable diseases. No person who is affected with any disease in a communicable form or is a carrier of such disease, shall work in any restaurant, and no restaurant shall employ any such person or any person suspected of being affected with any disease in a communicable form or of being a carrier of such disease. If the restaurant manager suspects that any employee has contracted any disease in a communicable form or has become a carrier of such a disease he shall notify the health officer immediately. A placard containing this section shall be posted in all toilet rooms. (1985 Code, § 11-28)

9-1310. Procedure when infection suspected. When suspicion arises as to the possibility of transmission of infection from any restaurant employee the health officer is authorized to require any and all of the following measures:

(1) The immediate exclusion of the employee from the restaurant;

(2) The immediate closing of the restaurant concerned until no further danger of disease outbreak exists, in the opinion of the health officer;

(3) Adequate laboratory examinations as may be indicated. (1985 Code, § 11-29)

9-1311. Itinerant restaurants. Itinerant restaurants shall be constructed and operated in an approved manner. (1985 Code, § 11-30)

CHAPTER 14

MILK AND MILK PRODUCTS

SECTION

9-1401. Penalties. Any person who shall violate any of the provisions of this chapter or the code adopted herein shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than fifty dollars ($50.00) or such person may be enjoined from continuing such violations. Each day upon which such a violation occurs shall constitute a separate violation. (1985 Code, § 11-47)

9-1402. Milk ordinance adopted. The production, transportation, processing, handling, sampling, examination, grading, labeling and sale of all milk and milk products sold for ultimate consumption within the corporate limits of the city or its police jurisdiction; the inspection of dairy herds, dairy farms and milk plants; the issuing and revocation of permits to milk producers, haulers and distributors shall be regulated in accordance with the provisions of Part II of the "Grade A Pasteurized Milk Ordinance-1978 Recommendations of the United States Public Health Service/Food and Drug Administration," three (3) copies of which are filed in the office of the city recorder; provided that § § 9 and 16 of such unabridged ordinance shall be replaced, respectively, by §§ 9-1401 and 9-1403 of this chapter, and that § 17 of such unabridged ordinance shall be elided therefrom. (1985 Code, § 11-48)

9-1403. Grade A pasteurized milk and milk products to be sold. Only grade A pasteurized milk and milk products shall be sold to the final consumer or to restaurants, soda fountains, grocery stores or similar establishments; provided, that in an emergency, the sale of pasteurized milk and milk products which have not been graded, or the grade of which is unknown, may be authorized by the health authority; in which case, such milk and milk products shall be labeled "ungraded." (1985 Code, § 11-49)

CHAPTER 15

SLAUGHTERHOUSES

SECTION

9-1501. Slaughtering of animals generally. (1) All animals not considered "game" slaughtered for human consumption or that are to be used for public trade or sold within the city or the police jurisdiction of the city shall be slaughtered at such slaughterhouse, as shall be licensed by the board of commissioners, except as provided thereby, and such slaughter shall be under the supervision and inspection of an official inspector of this city, and such slaughterhouse shall be regulated by the board of commissioners.

(2) It shall be unlawful for any person to erect or maintain a slaughter pen or any kind, or to carry on the business of slaughtering within the city, and no such pen or houses shall be used within one (1) mile of the city, unless the same is at all times kept in a condition of cleanliness as not to prove offensive or injurious to the health of the neighborhood. Whenever any territory shall be annexed to the city, any slaughterhouses in operation in such annexed territory at the time of annexation shall be permitted to continue in operation so long as they comply with all the necessary health and sanitary requirements. (1985 Code, § 11-66)

9-1502. Inspection fees generally. An inspection fee shall be charged for each carcass slaughtered at any slaughterhouse, to be paid by the owner of such carcass to the inspector. (1985 Code, § 11-67)

9-1503. Inspection and approval prerequisite to sale of fresh meat. No fresh or processed meat shall be sold or offered for sale within the city or its police jurisdiction, unless the same bears the stamp indicative of inspection and approval of the inspector, excepting meats bearing the stamp indicative of the inspection and approval of the Bureau of Animal Industry, United States Department of Agriculture. (1985 Code, § 11-68)

9-1504. Inspection of dressed carcasses of beef, etc., required. It shall be unlawful for any person to sell, offer or expose for sale, within the city any dressed carcasses, until the same is accompanied by the heart, liver, lungs, kidneys and tongue, and shall have been inspected by the health officer and the fees therefor, as established, shall have been paid. (1985 Code, § 11-69)

9-1505. Inspection of dressed carcasses of beef, etc--fees. The fees collectable for inspections required by § 9-1504 shall be as designated by the board of commissioners. These fees shall apply to all dried or cured meats, as well as to fresh meats; provided, however, that this section and § 9-1504 shall not apply to meats which have been inspected and approved by the inspection of the Bureau of Animal Industry, United States Department of Agriculture. (1985 Code, § 11-70)

9-1506. Manner of displaying, etc.,meats to be sold, etc.. All meat exposed for sale, sold or stored, shall be placed so as to prevent contamination by flies, dust and decaying or infectious material, and such meats shall be subject to inspection at any time or place. (1985 Code, § 11-71)

9-1507. Condemnation. All meats inspected and found unfit for human consumption shall be condemned, stamped and disposed of as the inspector may direct. (1985 Code, § 11-72)

9-1508. Federal standards adopted. In the inspection of all livestock or the dressed carcasses or parts thereof, and in condemning any of the above as unfit for human consumption, the inspector shall be guided by the rules and regulations of the Bureau of Animal Industry, United States Department of Agriculture. (1985 Code, § 11-73)

CHAPTER 16

VEHICLES FOR HIRE

SECTION

9-1601. Violations. Any person who willfully or deliberately violates or fails to comply with, or aids or abets in the violation of , any provision of this chapter shall be guilty of a misdemeanor. Upon conviction thereof, the first offense shall be punished by a fine of twenty-five dollars ($25.00), and the second offense shall be punished by a fine of fifty dollars ($50.00). The city court shall have concurrent jurisdiction with the state courts for such offenses. (1985 Code, § 23-1)

9-1602. Parking or standing within fire limits. It shall be unlawful for any person to park or leave standing on the streets or other public ways of the city, within the fire limits, any vehicle used for transporting persons or freight for hire; provided, however, that such vehicle used may be left standing on the streets for such time as may be necessary to load or unload passengers or freight. (1985 Code, § 23-2)

9-1603. Certificate--generally. No person shall operate any passenger motor vehicle for hire within the city, unless there is enforced with respect to such person a certificate of public convenience and necessity issued by the board of commissioners. A certificate of public convenience and necessity shall be issued to any qualified applicant thereby authorizing the operation of a passenger motor vehicle for hire within the city, if it is found that the applicant is fit, willing and able to properly perform the services proposed and to conform to the provisions of this chapter, and that the proposed service authorized by such certificate is, or will be, required by the present or future public convenience and necessity. Otherwise, such application shall be denied. No

certificate issued under this chapter shall confer any proprietary or property rights in the use of the streets and highways within the city. All applications for certificate of public convenience and necessity shall be made to the board of commissioners in writing, giving the name and address of the applicant, the number and character of passenger motor vehicles to be operated for hire, the reasons why such certificate should be issued and such other information as may be pertinent to the application for an issuance of such certificate. The application shall be verified under oath and shall be in such form and accompanied by proof sufficient to authorize the board of commissioners to grant the certificate applied for. No new certificates for public convenience and necessity to operate a passenger motor vehicle for hire shall be issued by the board of commissioners until and unless a public hearing is held on the request for a certificate of public convenience and necessity. Said hearing shall be held within thirty (30) days after receipt of the application for certificate of public convenience and necessity. If the city commission determines that there is additional need for services which can be provided by the applicant, said certificate of public convenience and necessity shall be issued. (1985 Code, § 23-3)

9-1604. Certificate--application fee. Each application for a certificate of public convenience and necessity required by this chapter shall be accompanied by an application fee of fifty dollars ($50.00) (1985 Code, § 23-4)

9-1605. Certificate--suspension; revocation. All certificates of public convenience and necessity issued to operators of passenger motor vehicles for hire are subject to suspension and /or revocation at any time by the city commission for good cause. (1985 Code, § 23-5)

9-1606. Insurance. Before any passenger motor vehicle for hire is licensed to be operated in the city, the owner or operator thereof shall exhibit a liability insurance policy, written by a company authorized to issue liability insurance policies in the state, on which the premium has been paid for at least one (1) year. Such liability insurance policy shall ensure the occupants and the public against bodily injury and property damage in the limits of not less than twenty thousand dollars ($20,000.00) for bodily injury or death of one (1) person, and forty thousand dollars ($40,000.00) for bodily injury or death of all persons injured or killed in any one (1) accident, and property damage in any one (1) accident in the amount of fifteen thousand dollars ($15,000.00), and uninsured motorist coverage with the same minimum limits. Such policy shall provide that it shall not be canceled or withdrawn until after thirty (30) days' notice in writing shall have first been given to the city and said thirty (30) days' notice shall commence upon the date that notice is actually received at the office of the city manager. In the event such policy is so canceled or withdrawn, the license for the operation of the passenger motor vehicle for hire insured thereby shall

be suspended until said policy is replaced with a like policy on which the premiums have been paid for at least one (1) year. (1985 Code, § 23-6)

9-1607. Posting privilege license. All persons doing a taxi business in the city shall be required to post, in a conspicuous place in their offices or business houses, the license issued to them by the city, for the privilege of operating such business within the city. (1985 Code, § 23-7)

9-1608. Operating rules. All persons who hold certificates of public convenience and necessity to operate passenger or motor vehicles for hire in the city shall be governed by the following rules and regulations:

(1) They shall have a place of business and shall do business from said place of business and shall not park vehicles which are not carrying passengers on the streets.

(2) They shall have their trademark or name, telephone number and permit number shown on each side and the rear of each vehicle in permanent paint.

(3) They shall not cruise or park any vehicle on any street in the city for the purpose of soliciting business.

(4) They shall not have such office or place of business where alcoholic beverages are sold.

(5) They shall have at least monthly inspections for all operational vehicles for the purpose of safety to passengers, baggage and the public. Records of said inspections shall be kept for at least one (1) year and shall be open to inspection by the city at all times.

(6) They shall not permit any of said vehicles to be operated by a person under the influence of intoxicating liquor or drugs. (1985 Code, § 23-8)

9-1609. Trademark and number displayed. It shall be unlawful for any person to operate a passenger motor vehicle for hire in the city unless said vehicle shall have a trademark of the company represented painted on each side and on the back so that said trademark, and number of permit, shall be visible for at least one hundred (100) feet. (1985 Code, § 23-9)

9-1610. Sidewalk solicitation. It shall be unlawful for any person engaged in the transfer or transportation of passengers for hire in the city to solicit any person upon the public sidewalks of the city for patronage. (1985 Code, § 23-10)

9-1611. Identification. Each driver must have an identification card with a picture of the driver, certified by the chief of police, posted in a conspicuous place in each passenger vehicle during the time said vehicle is driven by the authorized driver. (1985 Code, § 23-11)

9-1612. Intoxication. The operator or driver of any passenger motor vehicle for hire who shall have been licensed for such purpose by the city, upon the first conviction for the offense of driving said vehicle while intoxicated and in addition to the other penalties provided, shall have his license or permit suspended for a period of one (1) year from the date of the violation; upon a second conviction for a like offense, said permit or license shall be permanently revoked. (1985 Code, § 23-12)

9-1613. Illegal use. No passenger motor vehicle for hire authorized to be operated in the city shall be used for any illegal purpose. (1985 Code, § 23-13)

CHAPTER 17

VEHICLES FOR HIRE--DRIVER'S PERMIT

SECTION

9-1701. Required; application. No person shall operate any passenger motor vehicle for hire in the city, or permit another to operate such a vehicle owned or controlled by him/her for hire, unless the driver of such vehicle has first obtained and has in force a permit as required by the provisions of this chapter. An application for a permit to operate a passenger motor vehicle for hire in the city shall be filed with the city manager on forms provided by the city and such application shall be verified under oath and shall contain the following information:

(1) Age of applicant. Applicant must be at least twenty-one (21) years of age;

(2) A list of experience of the applicant in the transportation of passengers;

(3) The applicant's chauffeur's license number;

(4) A concise history of the applicant's employment; and

(5) Such other information as may be reasonably required. (1985 Code, § 23-30)

9-1702. Investigation. The chief of police shall cause a background investigation to be conducted on each applicant to determine if the applicant has a criminal record and if the applicant is of good moral character. (1985 Code, § 23-31)

9-1703. Chauffeur's license. Before any application for a driver's permit is finally passed upon by the city manager, the applicant shall exhibit a current motor vehicle chauffeur's license issued by the state. (1985 Code, § 23-32)

9-1704. Approval; appeal. The city manager shall pass upon each application for a driver's permit and shall not approve the application if, in the opinion of the city manager, the applicant is not of good moral character and competent to operate a passenger motor vehicle for hire. If an applicant is

rejected by the city manager, such applicant may file a written request with the city manager within ten (10) days after such rejection to appear personally before the city commission for a review of his application. The action of city commission on such appeal shall be final. (1985 Code, § 23-33)

9-1705. Contents; fees; term. Upon approval of an application and payment of a permit fee of five dollars ($5.00), the chief of police shall issue a permit to operate a passenger motor vehicle for hire in the city which shall bear the name, address, age, signature and photograph of the applicant. Such permit shall be in effect for the remainder of the city's licensing year. A permit for each year thereafter shall be issued upon payment of two dollars ($2.00) unless the permit for the preceding year has been revoked, in which event a new application is required. (1985 Code, § 23-34)

9-1706. Display. Each driver of a passenger motor vehicle for hire shall post his driver's permit in such vehicle as to be in full view of all passengers while such driver is operating said passenger motor vehicle for hire. (1985 Code, § 23-35)

9-1707. Suspension; revocation. The city commission, at any time it is deemed to be in the best interest of the welfare of the city and the citizens thereof, may suspend or revoke any permit issued pursuant to this chapter. The city commission, if it desires to do so, may grant to such permit holder an opportunity to be heard before suspension or revocation is effective. The city manager, upon recommendation of the chief of police, and when he deems it to be in the best interest and welfare of the city, may suspend any permit issued under the terms of this chapter. Such suspension shall be effective until the next regular meeting of the city commission, at which time the city commission shall either reinstate, continue such suspension or revoke such permit as it deems to be in the best interest and welfare of the city. (1985 Code, § 23-36)

CHAPTER 18

WEIGHTS AND MEASURES

SECTION

9-1801. Authority of board of commissioners generally. The board of commissioners may from time to time prescribe the rules and regulations necessary to enforce this chapter, as it may deem necessary or expedient. (1985 Code, § 25-1)

9-1802. Department created. A department of standard weights and measures for the city is hereby created. (1985 Code, § 25-2)

9-1803. Standards--generally. The weights and measures fixed by the United States, under the acts of resolutions of Congress, approved June 14, 1936, and additions thereto, and renewals thereto, certified by the national bureau of standards, and such other weights, measures, balances and apparatus as are the property of the city so made or added by the sealer of weights and measures, which are in conformity to, and certified by the national bureau of standards, shall be the standards by which all standards of weights and measures of the city shall be tried, proved and sealed. The board of commissioners shall provide the sealer of weights and measures with the necessary working sets of weights, measures, balances and apparatus for his use. (1985 Code, § 25-3)

9-1804. Standards--state standards for certain transactions. The provisions of Tennessee Code Annotated, § 47-26-101 are incorporated in this section by reference setting forth the legal and uniform standard of weights and measures in the city for the sale and purchase of products of the farm, orchard and garden, and articles of merchandise contained therein. (1985 Code, § 25-4)

9-1805. Standards--coal and coke dealers. In addition to the standard of weights and measures referred to in § § 9-1803 and 9-1804, all retail coal and coke dealers, operating or delivering within the city, shall furnish the sealer of weights and measures with a list of all their wagons, trucks, or other devices used in delivering coal and coke, which list shall contain an accurate

description of such vehicles and the weight of same; and in the weighing of coal and coke sold or to be sold by all such coal and coke dealers, the driver shall not remain in the wagon, truck or vehicle at the time such coal or coke is weighed; and all coal and coke sold by such dealers shall weigh at least two thousand (2,000) pounds per ton, and at the same time such coal or coke is weighed, a ticket or slip shall be made up by the persons so weighing this coal or coke, which ticket or slip shall be in duplicate, the carbon copy of which shall be delivered to the purchaser by the driver of such vehicle so delivering the coal or coke, and the original shall be kept on file in the dealer's office, subject to the inspection of the sealer of weights and measures; and these slips shall contain a statement of the gross and net weight of the coal or coke, and also the weight of the vehicle. (1985 Code, § 25-5)

9-1806. Full, honest and correct weight or measure. All persons within the city selling goods, wares and merchandise, groceries, meat, flour, bread, fruit, fish, fowl, coal, ice or any other form or kind of merchandise, and selling by weight or measure, shall give at all times a full, honest and correct weight or measure of the commodity sold and delivered; and, upon demand, shall furnish the purchaser an itemized statement in writing showing the weight or measure of the article purchased and the price thereof. (1985 Code, § 25-6)

9-1807. Compliance; hindering, obstructing, etc., sealer. No person shall hinder, obstruct or interfere in any way with the sealer of weights and measures, while in the performance of his official duties, or shall fail to produce, upon demand by the authorized sealer of weights and measures, any weights, measures, balances, weighing devices or measuring devices in or upon his premises, place of business or in his possession for use in manufacture or trade. No person shall sell anything within the terms of this chapter which is less by weight or measure than the standards referred to in this chapter. (1985 Code, § 25-7)

CHAPTER 19

SEALER OF WEIGHTS AND MEASURES

SECTION

9-1901. Appointment; duties generally. The city manager may appoint a sealer of weights and measures, who shall have and keep a general supervision of the weights, measures, weighing devices and measuring devices within the city; shall enforce all laws regarding them; and shall have the care and custody of all weights, measures, balances and other apparatus provided by the city, for the enforcement of this chapter. (1985 Code, § 25-24)

9-1902. Salary; term of employment. The salary and term of employment of the sealer of weights and measures shall be fixed by the board of commissioners. (1985 Code, § 25-25)

9-1903. Powers--generally. The sealer of weights and measures shall have power within the city to inspect, try and ascertain, if they are correct, all weights, scales, beams, measures of every kind, instruments or mechanical devices for measurements and tools, appliances or accessories connected with any and all such instruments or measures kept or exposed for sale, sold or used, or employed within the city, by any person in proving the size, quantities, things, produce, articles for distribution or consumption, for or submitted for sale, hire or reward. (1985 Code, § 25-26)

9-1904. Powers--spot checks of packages, etc. The sealer of weights and measures shall from time to time weigh or measure packages or amounts of commodities of any kind kept with intent to sell, sold or in the process of delivery, in order to determine whether the same contain the amounts of represented or are sold in a manner in accordance with the law. (1985 Code, § 25-27)

9-1905. Powers--right of entry. The sealer of weights and measures, at least once in a year, and more often as he may deem necessary, shall enter and go into, or upon, without formal warrant, any place, building or premises, or stop any vendor, peddler, junk dealer or any dealer whatsoever, and require him, if necessary to proceed to some place which the keeper of weights and measures shall specify for the purpose of making proper test. (1985 Code, § 25-28)

9-1906. Prosecution of violators generally. Whenever the sealer of weights and measures finds a violation of any section of this chapter relating to weights and measures, he shall cause the violator to be prosecuted. (1985 Code, § 25-29)

9-1907. Sealing, weighing or measuring devices. Whenever the sealer of weights and measures compares weights, measures, weighing devices or measuring devices and finds that they correspond, or if he causes them to correspond, with the standards in his possession, he shall seal or mark such weights, measures, weighing devices or measuring devices with a seal to be approved and provided by the board of commissioners. (1985 Code, § 25-30)

9-1908. Condemnation, etc., and correction of weights, measures, etc. (1) The sealer of weights and measures shall condemn, seize and may destroy inaccurate weights, measures, weighing devices or measuring devices, which in his best judgment are not susceptible to repair, but such as are inaccurate and yet may be repaired, he shall mark, or tag as "condemned for repairs," and the owners or operators of apparatuses so condemned shall have same corrected or repaired within ten (10) days and may not use nor dispose of same in any manner without permission from the sealer of weights and measures.

(2) Any apparatus, which has been "condemned for repairs," and has not been repaired as required above, shall be confiscated by the sealer of weights and measures. (1985 Code, § 25-31)

9-1909. Records and reports. The sealer of weights and measures shall keep a complete record of his official acts, and shall make an annual report to the board of commissioners, duly sworn to, and also an annual report, duly sworn to, on the first day of December of each year, to the commissioner of the state department of agriculture, on blanks to be furnished by such commissioner. (1985 Code, § 25-32)

9-1910. Approved standards, etc.,to be provided. The board of commissioners shall provide the sealer of weights and measures with suitable quarters, a set of standards to be approved by the commissioner of the state department of agriculture, and all other equipment for the proper performance

of his duties; and all such standards shall, so furnished to the sealer of weights and measures, be tried, approved and sealed under the direction of the commissioner, and shall be returned to him for verification at least once in every five (5) years. (1985 Code, § 25-33)

9-1911. Police powers. The sealer of weights and measures is made a special policeman and, after first taking the oath and making bond, may arrest, without formal warrant, any violator of this code or any ordinance, in relation to weights and measures, and seize for use as evidence, without formal warrant, any false or insulated weight, measure weighing devices or measuring devices or packages, or amounts of commodities offered or exposed for sale or sold in violation of this Code or any city ordinance. (1985 Code, § 25-34)

CHAPTER 20

GARAGE SALES

SECTION

9-2001. Definitions. The following words, terms, and phrases, when used in this chapter shall have the meanings described to them in this section:

(1) "Garage sale" means and includes the sale of personal property from a residence. It includes all general sales open to the public including but not limited to, all sales entitled "garage," "lawn," "yard," "attic," "porch," "room," "backyard," "patio," "flea market," or "rummage" sales, as well as other sales of personal property from a residence not exempted hereunder. This definition shall not include the sale of personal property not in excess of five (5) items, provided that such items are specifically named or identified in the advertisement.

(2) "Personal property" means any property other than real property.

(3) "Residence" shall mean a single address of a single-family residence (including mobile homes), duplexes, apartments, or condominiums. (Ord. #3322, Sept. 1995)

9-2002. Requirements. (1) No garage sale shall be conducted unless and until the person desiring to conduct such sale shall obtain a permit therefor from the city finance department. Members of more than one residence may collectively obtain a permit for a garage sale to be conducted at one of the residences.

(2) Upon compliance with the provisions of this section and the payment of the proper fee, the finance department shall issue a permit the same day which shall designate the location of the sale and day(s) upon which sale shall be conducted.

(3) Only one (1) sign not exceeding six (6) square feet in size may be displayed on the premises where such sale is being conducted. Such sign shall not be erected or placed closer than five (5) feet to the front or side property lines and shall be removed immediately following the termination of the sale or exhibited no more than two days prior to the sale.

(4) Such a garage sale shall be held only between the hours of 7:30 A.M. and 7:00 P.M.

(5) No more than three (3) garage sales shall be held from the same address within any calendar year with not more than two (2) garage sales permitted within a thirty (30) day period.

(6) Each garage sale shall not exceed three (3) consecutive days.

(7) There shall be no fee charged for any permit issued.

(8) The garage sale permit shall be prominently displayed from the front of the building from which such sale is conducted. Upon the request of any code enforcement personnel of the City of Johnson City, the owner or lessee of the property shall exhibit such permit.

(9) Personal property offered for sale at a garage sale may be displayed within the residence, in a garage, carport, and/or the yard. No personal property may be offered for sale at a garage sale in any public right-of-way.

(10) Exceptions. (a) If a garage sale is not held on the dates for which the permit is issued or is terminated during the first day of the sale because of inclement weather conditions, the city may issue another permit to the applicant. No additional permit fee is required.

(b) A fourth garage sale shall be permitted in a calendar year if satisfactory proof of change in ownership of the real property is first presented to the city recorder or his duly authorized representative.

(11) Revocation and refusal. (a) Any permit issued under this chapter may be revoked or any application for issuance of a permit may be refused by the city recorder if the application submitted by the applicant or permit holder contains any false, fraudulent or misleading statement.

(b) If any individual is convicted of an offense under this chapter, the city recorder shall cancel any existing garage sale permit held by the individual convicted and not to issue such individual another garage sale permit for a period of two years from the time of cancellation. (Ord. #3322, Sept. 1995)

9-2003. Exemptions. The provisions of this chapter shall not apply 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 from or at a place of business wherein such sale would be permitted by the zoning regulations of the city or under the protection of the nonconforming use section thereof or any other sale conducted by a manufacturer, dealer or vendor and which sale would be conducted from properly zoned premises and not otherwise prohibited in other ordinances.

(4) Any sale conducted by a bona fide charitable, non-profit, educational, cultural, or governmental institution or organization from or at the place of business for the institution or organization when the proceeds from the sale are used directly for the institution's or organization's charitable purposes and the goods or articles are not sold on a consignment basis. (Ord. #3322, Sept. 1995)

9-2004. <u>Enforcement</u>. (1) A police officer or any other official designated by any city ordinance to make inspections under the licensing or regulating ordinance or to enforce the same shall have the right of entry to any premises showing evidence of a garage sale for the purpose of enforcement or inspection and may close the premises from such a sale and/or charge the individual(s) conducting or working in such a sale with violation of this chapter.

(2) Every article sold and every day a sale is conducted in violation of this chapter shall constitute a separate offense. (Ord. #3322, Sept. 1995)

CHAPTER 21

AMBULANCE SERVICES[1]

SECTION

9-2101. General provisions. (1) Each service licensed hereunder shall conform to all Class "A" or "B" ambulance standards as defined by the Tennessee Department of Health and Environment, Division of Emergency Medical Services.

(2) This chapter shall apply solely to services as referred to hereinabove operating point to point transports within the geographic boundaries of Washington County or the City of Johnson City and operating under a business license from the City of Johnson City.

(3) No such service shall cause or permit any ambulance to be dispatched on the basis of information obtained by scanning radio traffic. All dispatches shall be made and answered by established base operations for each service.

(4) No such service shall make an emergency response to the scene of any call without the permission of the Washington County - Johnson City 911 Communications Center.

(5) Such services permitted to operate within the area of Washington County and the City of Johnson City shall first notify the 911 Communications Center if, while transporting a patient, it becomes necessary to change from non-emergency to emergency traffic. (Ord. #3513, Sept. 1997)

9-2102. Annual permit. Each such service operating and initiating calls within the area of Washington County and the City of Johnson City,

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[1]State law reference

Ambulance services: Tennessee Code Annotated, § 7-61-101, et seq.

respectively, shall be required to obtain a permit from Washington County and the City of Johnson City or their designated agent. The following information shall be submitted annually to the respective government entities, no later than April 1st of each year, and shall be expressly contingent on processing of the state ambulance license renewal by the State of Tennessee, to wit:

(1) The name and address of the applicant and the owner(s) of the service.

(2) The trade or fictitious name, if any, under which the applicant does business and/or proposes to do business.

(3) The training and experience of the applicant in the transportation and care of patients.

(4) A copy of the completed state licensure package along with a copy of the applicant's state license.

(5) A current copy of the business/privilege license issued by the county clerk or City of Johnson City.

(6) An accompanying fee, mutually agreed upon by the Washington County Executive and the City Manager of Johnson City, and which fee shall be published from time to time.

(7) Ambulance services will supply the city government with evidence of compliance with the current annual State of Tennessee ambulance permits at the A or B level. This can be done through supplying a copy of the annual license or by letter from the regional director for the Tennessee Department of Health and Environment - Division of Emergency Medical Services. (Ord. #3513, Sept. 1997)

9-2103. Organization identification. (1) The ambulance service shall boldly display its company name on all facilities, visible to the public.

(2) No entity providing ambulance service shall use the name "Washington County" or "Johnson City," or any part thereof, in their name or any other phrase or wording that would tend to cause the public to believe that it is associated with the Washington County or Johnson City Governments. This provision shall not apply to the Washington County-Johnson City EMS Inc. or the Johnson City Rescue Squad, both of which have established their names prior to the ordinance comprising this chapter. (Ord. #3513, Sept. 1997)

9-2104. Operating base. Each such service accepting calls originating and terminating in Washington County or the City of Johnson City shall do the following:

(1) Maintain a fixed base of operations within the boundaries of Washington County or within the City of Johnson City.

(2) Such base shall house necessary equipment for communications and business functions.

(3) Maintain twenty-four (24) hour per day communications with the public, with other services and with the emergency departments of the various hospitals.

(4) The address and telephone number(s) of such fixed base shall be published and available to the public. (Ord. #3513, Sept. 1997)

9-2105. Medical director. All physician medical directors for ambulance services operating within the area of Washington County or the City of Johnson City shall be physicians practicing predominantly within the boundaries Washington County or the City of Johnson City. (Ord. #3513, Sept. 1997)

9-2106. Insurance. All ambulance services operating hereunder of shall maintain insurance policies consistent with the state law for emergency medical services, workers compensation and financial responsibility. Such insurance policies shall be issued by insurance companies authorized to do business in the State of Tennessee. (Ord. #3513, Sept. 1997)

9-2107. Vehicles and equipment. (1) All vehicles used as ambulances shall conform to the regulations of the Tennessee Department of Health concerning specifications and equipment.

(2) Each emergency ambulance shall be equipped for communication with the 911 communications center and the hospitals from the vehicle as well as portable communications.

(3) Each emergency ambulance shall be equipped to provide advanced life support including but not limited to those items required by the Department of Public Health, State of Tennessee.

(4) Each ambulance shall display its company name and unit number on the outside of the vehicle.

(5) Each emergency ambulance shall be equipped with essential emergency pediatric equipment.

(6) Each ambulance shall have available snow tires or chains to enable the vehicle to travel in times of snow or ice.

(7) All vehicles used as non-emergency ambulances shall be no more than seven (7) years old from the date of manufacture and have no more than 200,000 actual miles.

(8) Ambulances shall be kept in sanitary condition. Units shall be cleaned immediately after each call. All services shall conform to the provisions of occupational health regulations regarding bloodborne pathogens, specifically under conditions established under CFR1910.1030 and any other applicable law or regulation. (Ord. #3513, Sept. 1997)

9-2108. Ambulance personnel. (1) Emergency medical technicians and paramedics employed by ambulance services operating within the

boundaries of Washington County or within the City of Johnson City shall be licensed by the Tennessee Department of Health.

(2) All emergency medical technicians and paramedics shall be clean in dress and person and shall display his/her name and level of license in an appropriate manner visible to the patient. (Ord. #3513, Sept. 1997)

9-2109. Disasters and mutual aid. All permitted services within the boundaries of Washington County and within the City of Johnson City shall be required to:

(1) Respond, in the case of disaster, upon the request of the 911 communications center and report for coordination by the appropriate level of authority of the Washington County-Johnson City Emergency Medical Services, the state EMS regional director and/or the emergency management agency or their designees in accordance with the incident command system.

(2) Establish mutual aid agreements with the surrounding EMS and rescue services for assistance in the event of major disaster situations or incidents that exceed the capabilities of the primary EMS service, consistent with state statutes regarding the provisions of emergency medical services. (Ord. #3513, Sept. 1997)

9-2110. Revenue. Each service licensed hereunder shall be Medicare and TennCare enrolled and currently approved with a valid Tennessee provider number and will accept assignment on all Medicare and TennCare claims. Each service shall have the capability and shall provide electronic billing with Medicare. Computer billing shall be used for all patient accounts receivables. Business office hours shall be established for the general public at least forty (40) hours per week and at least during normal daylight office hours. (Ord. #3513, Sept. 1997)

9-2111. Refusal of service. No service licensed hereunder shall deny emergency care or transportation to any patient based on race, creed, sex, national origin, patient condition, or ability to pay. (Ord. #3513, Sept. 1997)

9-2112. Monitoring and enforcement. The Washington County-Johnson City Medical Advisory Board and the Regional Director for the Tennessee Division of EMS under the Department of Health and Environment, shall jointly monitor all licensed services operating in Washington County and within the City of Johnson City for compliance with the provisions of this chapter.

Permits issued under § 9-2102 shall be subject to revocation for violations as provided herein, by the issuing body and that revocation shall be subject to review as provided by law. (Ord. #3513, Sept. 1997)

9-2113. Penalties. (1) Any person or service violating or failing to comply with any provision of the ordinance comprising this chapter shall be assessed a penalty not exceeding fifty dollars ($50.00) for each violation and payable in equal sums to the governments of Washington County and the City of Johnson City.

(2) Two (2) violations within a six (6) month period shall subject the service to revocation of its permit. (Ord. #3513, Sept. 1997)

CHAPTER 22

CABLE TELEVISION

SECTION

9-2201. To be furnished under franchise. Cable television shall be furnished to the City of Johnson City and its inhabitants under franchise granted by the board of commissioners of the city. The rights, powers, duties and obligations of the City of Johnson City and its inhabitants are clearly stated in the franchise agreements executed by, and which shall be binding upon the parties concerned.[1]

[1]Ordinances providing complete details relating to cable television franchise agreements are of record in the office of the city recorder.

TITLE 10

ANIMAL CONTROL

CHAPTER

CHAPTER 1

ANIMAL CONTROL ORDINANCE

SECTION

10-101. Definitions. As used in this chapter the following terms mean:

(1) "Animal." Any live, vertebrate or invertebrate creature, domestic or wild, warm or cold blooded, other than a human being.

(2) "Animal control officer." Any person employed and designated by the WCJC Animal Shelter as its enforcement officer(s) with primary responsibility in the area of animal control.

(3) "Business day." A business day shall be any day that the shelter is open for intake and adoptions.

(4) "Extreme weather." Any weather situation that includes excessive heat greater than eighty-five degrees Fahrenheit (>85°), excessive cold of less than thirty-two degrees Fahrenheit (<32°), and/or during periods of severe thunderstorms, flooding or tornado warnings.

(5) "Fees." All fees referred to herein shall be set by the WCJC Animal Control Board annually, shall be comparable to fees set by other shelters statewide, and shall be made available to the public through the WCJC Animal Shelter.

(6) "Fines." All fines referred to herein shall be set by the WCJC Animal Control Board annually, shall be comparable to fees set by other shelters statewide, and shall be made available to the public through the WCJC Animal Control Board.

(7) "Livestock." All equine as well as animals which are being raised primarily for use as food or fiber for human consumption or utilization including, but not limited to cattle, sheep, swine, goats, and poultry.

(8) "Nuisance animal." Any animal or animals which:

(a) Molests passers-by or passing vehicles;

(b) Attacks other animals;

(c) Trespasses on school grounds;

(d) Is repeatedly at large;

(e) Damages private or public property; or

(f) Barks, whines or howls in an excessive, continuous or untimely fashion, or adversely affects the health or disturbs the repose of any neighbor or disturbs the peace and quiet of a neighborhood.

(9) "Owner." Any person, association, partnership, corporation or other entity owning, keeping or harboring one (1) or more animals. An animal shall be deemed to be harbored if it is fed or sheltered for three (3) consecutive days or more.

(10) "Pet." Any domesticated living creature (non-livestock) kept for pleasure rather than commercial use.

(11) "Registration certificate." ("certificate"). A pet owner is required to register each animal with the WCJC Animal Shelter.

(12) "Restraint." Any animal secured by a leash or lead, or under the control of a responsible person, or within the real property limits of its owner.

(13) "Unaltered registration certificate." A pet owner who meets the spay/neuter exemptions in § 10-201 may apply for a registration certificate that states that the animal has been identified as exempt by the WCJC Animal Shelter, and shall pay the fee set for such unaltered certificate.

(14) "Vicious animal." Any animal or animals that attacks, bites, or injures or poses a threat to human beings or other animals without adequate provocations; or which, because of temperament, conditioning or training, has a known propensity to attack, bite or injure human beings or other animals.

(15) "WCJC Animal Shelter." Any facility operated in Washington County/Johnson City for the purpose of impounding and providing care of animals held under the authority of the city/county, or state, and governed by the animal control board.

(16) "Wild animal." Any live monkey (nonhuman primate), raccoon, skunk, fox, poisonous snake, leopard, panther, tiger, lion, lynx or any other

warm-blooded animal which can normally be found in the wild state. (Ord. #3425, March 1998, as amended by Ord. #4155-06, March 2006, and replaced by Ord. #4708-19, Nov. 2019 ***Ch12_6-20-20***)

10-102. Registration of animals. (1) All residents owning, keeping, harboring, or having custody of dogs over three (3) months of age within Washington County/Johnson City shall register that animal by making application in written form to the WCJC Animal Shelter or its designee. This provision shall not apply to the keeping of small, caged birds; rodents; reptiles; or aquatic and amphibian animals as pets or applicants who qualify to register under § 10-102 for unaltered certificates.

(2) Written applications for registration certificates shall be made to the WCJC Animal Shelter or its designee. At a minimum, included on the application, shall be the name, address, and telephone number of the applicant, a description of the animal, and rabies certificate number issued by a licensed veterinarian as required by state law. The period of each registration will include the twelve (12) months following January 1 of each calendar year. The annual registration fee for each dog shall be collected, as well as proof of a current rabies vaccination. Failure to maintain current rabies vaccinations shall render the dog registration invalid until proof is provided.

A list of spay/neuter exceptions are included in § 10-201, thus allowing an application for the registration of animals who are identified and permitted as unaltered. The cost of an unaltered registration certificate per year per animal shall be provided at the time of registration. If an animal is in custody of the WCJC Animal Shelter, and the registration certificate of that animal does not state that it is an unaltered registration certificate, the animal shall be surgically spayed/neutered prior to the return of the animal to the owner, or the animal may be adopted to a new owner pursuant to Washington County/Johnson City Code.

Any person moving into the City of Johnson City owning a dog will have ninety (90) days to apply for a registration certificate for each dog, or apply for an unaltered registration certificate for each dog, if applicable. Any person who obtains a new dog shall have ten (10) days to register that animal.

(3) Each registration certificate shall be good for one (1) year.

(4) At the time of registration, an appropriate certificate shall be issued under subsection (2) and the WCJC Animal Shelter shall also keep on file a copy of the certificate, which shall include the serial number of the registration certificate and the year in which it was issued.

(5) If registration of service dogs or police agency dogs can be demonstrated with national organizations in such manner so as to provide for accurate identification of individual animals so registered, then registration will not be required hereunder for those animals so registered. Proof of such registration must be made available upon the request of the WCJC Animal Shelter or any representative thereof.

(6) The WCJC Animal Shelter shall maintain a record of the identifying numbers of all certificates issued and shall make this a public record.

(7) A duplicate registration certificate can be obtained for a fee. Certificates are non-transferable, required to be paid in advance, and non-refundable.

(8) It shall be unlawful for any person owning, keeping or harboring a dog within the city/county limits to fail to register such dog as required by this section.

(9) A license will be required of any person who, for compensation or profit, buys, sells, transports (except as common carrier), delivers for transportation, or boards dogs or cats for research purposes, or any person who buys or sells twenty-five (25) or more dogs or cats in any one (1) calendar year for resale within the state or transportation out of the state.[1]

(10) It shall be unlawful for any person to own, possess, or harbor any dog or cat within the city limits unless such dog or cat is inoculated against rabies.[2]

(11) The city/county acting by and through the WCJC Animal Shelter, may revoke any registration certificate if the person holding the certificate refuses or fails to comply with this chapter, or any law governing the protection of animals as contained in the state rabies laws, Tennessee Code Annotated, § 68-8-101 et seq., at the time of the passage of this chapter on third and final reading.

(12) Any person whose registration certificate is revoked will, within ten (10) days thereafter:

(a) Fully comply with the provisions of this chapter and file proof of such compliance with the WCJC Animal Shelter. No part of the certificate fee, however, shall be refunded; or

(b) Surrender the animal(s) in noncompliance.

(13) If the applicant has withheld or has falsified any information, or if the information is incomplete or incorrect, the WCJC Animal Shelter shall refuse to issue a registration certificate or, if issued, shall immediately and forthwith revoke the same. Appeals from such refusal to issue or from revocation shall be to the WCJC Animal Control Board. (Ord. #3425, March 1998, as amended by Ord. #3686, June 1999, and Ord. #4155-06, March 2006, and replaced by Ord. #4708-19, Nov. 2019 ***Ch12_6-20-20***)

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[1]State law reference

License fee for dealers: Tennessee Code Annotated, § 44-17-102.

[2]State law reference

Rabies control: Tennessee Code Annotated, § 68-8-104.

10-103. Restraint. (1) Running at large prohibited.[1] It shall be unlawful for the owner of any animal, or any person having an animal in his care, custody or possession to suffer or allow it to run at large unattended on or about the streets and highways of Washington County/Johnson City, or on the property of another person without the permission of the owner or occupant of that property, or of the person in possession of that property. Penalties for damages caused by dogs running at large are noted in Tennessee Code Annotated, § 44-8-408.

(2) Duty to keep animal under restraint while off of property. It shall be the duty of the owner of any animal or anyone having an animal in his care, custody or possession to keep said animal under control at all times while the animal is off of the real property limits of the owner, possessor or custodian. For the purposes of this section, an animal is deemed "under control" when it is confined within a vehicle, temporarily parked or in motion, is secured by a leash or other device held by a competent person, or is properly confined within an enclosure with permission of the owner of the property where the enclosure is located. All animals riding in the bed of pickup trucks, open-air trucks/cars, open platform vehicles and/or trailers must be secured in a manner to keep them safe and free from harm with a three (3) point crosstie system encompassing sides, front and back. Animals on private property are exempt from this requirement. Keeping animals in cars during extreme weather is not permitted, and owners are required to follow guidelines as established in § 10-105(2) and per the attached temperature index, which shall be used by animal control officers as guidance for the removal of pets from properties or vehicles. Noncompliance may be subject to a fine by WCJC Animal Control.

(3) Vicious animals. As determined by the animal control officer, each vicious animal shall be confined by the owner or custodian of the animal within a building or secure enclosure and shall be securely muzzled or restrained or caged whenever off the premises of its owner.

(4) Restraints while on owner's property. Beginning January 1, 2020, a dog or puppy may be placed on a trolley/pulley system in his/her own yard for a period of time that does not exceed twelve (12) consecutive hours per day. The dog may not be tethered for the twelve (12) hour period to a fixed post unless attended or under observation. The trolley must be at least four feet (4') off the ground and no more than seven feet (7') off the ground, and at least ten feet (10') from support to support. Tethers must have swivel connectors on both ends and allow for freedom of movement. All chains/tethers must be attached to a properly fitting buckle collar or snap collar, or to a harness, (choke or pinch collars are prohibited). Chains/tethers must be less than ten percent (10%) of the dog's weight. Any tethering system shall not allow the dog or puppy to leave the

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[1]State law reference

Running at large: Tennessee Code Annotated, 44-8-408, et seq.

owner's property. The animal must have appropriate housing per § 10-105, access to food and water and must be safe from attack by other animals. Only one (1) dog per trolley is allowed.

Beginning January 1, 2021, no dog may be tethered or chained and left unattended. A dog or puppy may only be tethered or chained to a fixed object if the animal is under the observation of its owner. No puppy under the age of six (6) months shall be placed on a trolley/pulley system or tethered. Owners also have the option of providing a fence or pen for dogs that allows a minimum of one hundred (100) square feet of space per dog as detailed in § 10-105 (2).

(5) Failure to comply. No Fines for failure to comply shall be assessed until after January 1, 2021. Fines after that date shall be set to be paid for the first occurrence, with the allowance of a thirty (30) day period to comply. The second occurrence shall be a larger fine to be paid within a thirty (30) day compliance period, and the third occurrence shall result in the surrender of the dog to the WCJC Animal Shelter. (Ord. #3425, March 1998, as amended by Ord. #4155-06, March 2006, and replaced by Ord. #4708-19, Nov. 2019 ***Ch12_6-20-20***)

10-104. Impoundment and violation notice. (1) Unrestrained dogs and nuisance animals will be taken by the animal control officers and impounded in an animal shelter and there confined in a humane manner.

(2) If the owner of an impounded animal can be identified by a license, registration certificate, rabies tag or other means, the animal control officer will immediately upon impoundment notify the owner by telephone or mail or other appropriate, reasonable means. All efforts shall be made to contact owners.

(3) Upon intake into the shelter, all dogs and cats shall be vaccinated. The rabies vaccine shall not be given to an animal less than three (3) months of age or to any animal that is surrendered and the history can be traced to determine vaccinations are not necessary. Following a waiting period of three (3) business days, the dog or cat shall be spayed/neutered, unless the dog or cat qualifies for an unaltered certificate as stated in § 10-201 or has previously been surgically altered. The cost of vaccinations and surgical alterations will be paid by the owner reclaiming the animal before leaving the shelter.

(4) An owner reclaiming an impounded animal having a current unaltered registration certificate will pay a fee on the first occurrence, plus a fee per day for boarding cost for the period of time the animal has been impounded, and the cost of all medical treatment or other expense incurred as deemed necessary by the animal control officer, the director of the WCJC Animal Shelter, or the attending veterinarian. If the same animal must be reclaimed after a second or third time, there will be a fee each time, in addition to other costs in § 10-104(3). After the third occurrence, the animal will be surrendered to the WCJC Animal Shelter to be adopted or potentially euthanized.

(5) An owner reclaiming an impounded dog having no current registration certificate will pay a fee, plus the per day boarding cost for the

period of time the animal has been impounded, and the cost of all medical treatment or other expense incurred as deemed necessary by the animal control officer, the director of the WCJC Animal Shelter, or the attending veterinarian, and if the animal is unaltered, the owner will pay the cost of surgical spay/neuter. Likewise, the animal shall be required to be registered prior to being released to the owner. An owner reclaiming an impounded dog having a current registration certificate shall pay a fee, and if the animal is unaltered, the owner will pay cost of surgical spay/neuter.

(6) The reclamation fee for impounded dogs and cats will be set by the WCJC Animal Control Board to be paid in addition to the cost of surgical spay/neuter.

(7) Any animal not reclaimed by its owner within three (3) days will become the property of the WCJC Animal Shelter and will be placed for adoption or humanely euthanized. (Ord. #3425, March 1998, as amended by Ord. #3686, June 1999, and replaced by Ord. #4708-19, Nov. 2019 ***Ch12_6-20-20***)

10-105. Animal care.[1] (1) No owner or custodian shall fail to provide his/her animals with adequate and sufficient food and clean water, proper shelter and protection from the weather, and veterinary care when needed to prevent suffering. Owners or custodians shall provide such animals with humane care and treatment.

(2) All animals must have access to an appropriate shelter while in a fenced-in area or pen. The shelter must be dry and provide protection from inclement weather and the sun. An appropriate shelter includes a roof or dome, flooring that provides protection from the weather, and allows adequate room for the dog to stand, turn around and lie down. Preference is for the shelter to have a minimum of at least three (3) sides. All animals shall be afforded protection from the weather as defined under extreme weather in defined in § 10-101(3). For animals enclosed in a pen or fenced in area, the area for eating and drinking water must be separate from the area used for expelling waste. This subsection is applicable for dogs who are tethered until January 2021, at which time it will be unlawful to leave a dog tethered or chained to a fixed post as defined in § 10-103(4).

(3) No person shall beat, cruelly ill-treat, torment, maim, withhold medical treatment for critical injuries or illness, overload, overwork, or otherwise abuse an animal, or cause, instigate, suffer or permit any dogfight, cockfight, bullfight or other combat between animals or between animals and humans.

(4) No owner of an animal shall abandon the animal.

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[1]State law reference

Cruelty to animals: Tennessee Code Annotated, § 39-14-202.

(5) No person except a licensed veterinarian shall crop a dog's ears nor dock a dog's tail.

(6) Chickens, ducklings, goslings of any age, or rabbits under two (2) months of age shall not be sold or offered for sale as pets, toys, premiums or novelties if those fowl or rabbits have been colored, dyed, stained or otherwise had their natural color changed.[1]

(7) No person shall expose any known poisonous substance, whether mixed with food or not, so that the same shall be liable to be ingested by an animal; provided that it shall not be unlawful for a person to expose on his/her own property common rat poison. (Ord. #3425, March 1998, as amended by Ord. #4155-06, March 2006, and replaced by Ord. #4708-19, Nov. 2019 ***Ch12_6-20-20***)

10-106. Keeping of wild animals. (1) No person shall keep or permit to be kept on his premises any wild or vicious animal for display or for exhibition purposes, whether gratuitously or for a fee. This section shall not be construed to apply to zoological parks, performing animal exhibitions or circuses.

(2) No person shall keep or permit to be kept any wild animal as a pet. This does not affect keeping wild animals for rehab or other purposes allowed by state permit. (Ord. #3425, March 1998, as replaced by Ord. #4708-19, Nov. 2019 ***Ch12_6-20-20***)

10-107. Nuisance animal. It shall be unlawful to keep or harbor any animal which barks, howls, or whines in an excessive, continuous or untimely fashion; creates a nuisance; or adversely affects the health or disturbs the repose of any neighbor, or disturbs the peace and quiet of a neighborhood. Owners of such animals shall receive one (1) warning from the police or animal control to correct the situation, a citation shall be issued if the police or animal control have to respond to repeated complaints. (Ord. #3425, March 1998, as replaced by Ord. #4708-19, Nov. 2019 ***Ch12_6-20-20***)

10-108. Performing animal exhibitions. (1) No performing animal exhibition or circus shall be permitted in which animals are induced or encourage to perform through the use of chemical, mechanical, electrical or manual devices in a manner which may cause, or is likely to cause, physical injury or suffering.

(2) All equipment used on a performing animal shall fit properly and be in good working condition. (Ord. #3425, March 1998, as replaced by Ord. #4708-19, Nov. 2019 ***Ch12_6-20-20***)

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[1]State law reference

Dyed baby fowl and rabbits: Tennessee Code Annotated, § 39-14-204.

10-109. **Animal waste**. The owner of every animal will be responsible for the removal of any excreta deposited by his/her animal(s), or animals in his/her custody, on public walks, recreation areas, private property and public parks. (Ord. #3425, March 1998, as replaced by Ord. #4708-19, Nov. 2019 ***Ch12_6-20-20***)

10-110. **Dead animals**. It shall be unlawful for any person to place or throw any dead animal onto the streets, or other public places in Washington County or within the city limits of Johnson City. The bodies of all animals dying of any causes, shall be the responsibility of the owner of said animal, to be disposed of, or buried in an appropriate, licensed disposal facility or outside the city limits as soon as possible. In the alternative, the owner shall contact the appropriate agency to remove the body of said animal which shall be bagged or otherwise appropriately contained. (Ord. #3425, March 1998, as replaced by Ord. #4708-19, Nov. 2019 ***Ch12_6-20-20***)

10-111. **Compliance**. No owner, lessee, tenant or subtenant of any property, public or private, located within the city will keep, maintain or cause to be kept any horses, mules, donkeys, cattle, swine, chickens, turkeys, ducks, geese, goats, sheep, hares or similar animals or fowl either domesticated or not domesticated except under conditions set forth in the provisions of this chapter. (Ord. #3425, March 1998, as replaced by Ord. #4708-19, Nov. 2019 ***Ch12_6-20-20***)

10-112. **Near residence or business**. No animals, fowl, swine or poultry described in § 10-111 will be kept within a distance of one thousand (1,000) linear feet of any residence or place of business or industry within the city, without the approval of the WCJC Animal Shelter Director, or his/her designee. The keeping of the animals and fowl on public and private premises will be allowed only when the keeping of such animals and fowl has been determined not to injuriously affect the public health and welfare. (Ord. #3425, March 1998, as replaced by Ord. #4708-19, Nov. 2019 ***Ch12_6-20-20***)

10-113. **Approval of health officer; factors considered**. The WCJC Animal Shelter Director, or his/her designee, is authorized to prohibit the keeping of animals and fowl described in § 10-111 within the city when it has been determined that the keeping of such animals and fowl is not in compliance with the provisions included in § 10-112, or when it is the opinion of the WCJC Animal Shelter Director, or his/her designee, that the keeping of such animals and fowl may prove detrimental to the public health by creating or causing situations conducive to the breeding and attracting of flies and other injurious and obnoxious insects, the breeding, feeding and harboring of rats, and which may give rise to offensive smells and odors. Approval for the maintenance of such animals or fowl may be at the discretion of the WCJC Animal Shelter

Director, or his/her designee. Owners and keepers of such animals and fowl, when not specifically notified to dispose of them within a reasonable specified time, may construe their failure to receive such notice as evidence of approval and that they may maintain such animals or fowl for as long as their maintenance does not constitute a hazard to the public health and welfare. (Ord. #3425, March 1998, as replaced by Ord. #4708-19, Nov. 2019 ***Ch12_6-20-20***)

10-114. Maintenance of stalls, stables, pens, etc.. (1) No animals or fowl described in § 10-111 will be kept in any place in which manure or liquid discharges from such animals or fowl shall collect or accumulate to any degree of offensiveness. Such manure and liquids shall be removed at once to some proper place of disposal or effectively stored between periods of removal in closed containers, which shall provide for the maximum practical fly, rodent and odor control.

(2) Stalls, stables, pens, yards and appurtenances in which such animals and fowl are kept shall at all times be maintained in a clean condition, so that no offensive odor shall be allowed to escape therefrom, and no rodents, flies or other insects shall be able to breed therein or become attracted thereto.

(3) Buildings, pens, yards and appurtenances constructed for the purpose of housing and impounding animals and fowl shall be located with the view of adequate drainage and constructed so as to facilitate routine cleaning. (Ord. #3425, March 1998, as replaced by Ord. #4708-19, Nov. 2019 ***Ch12_6-20-20***)

10-115. Removal upon failure to maintain premises. It shall be the duty of the WCJC Animal Shelter Director or designee to issue orders requiring the removal of animals and fowl from the city when the keeping of such animals and fowl is in violation of this chapter and at all times when the keeping of such animals or fowl may constitute a hazard to the public health. Orders may be issued requiring the owners of animals and fowl, or owners, tenants and lessees of properties where such animals and fowl are quartered, to routinely clean stalls, stables, pens, and yards and to maintain such appurtenances in a clean and sanitary condition. Failure to maintain premises in a satisfactory condition at any and all times following the receipt of such orders from the WCJC Animal Shelter or designee shall be considered as justification to cause the removal of such animals or fowl from the city. Every keeper of such animals and fowl shall cause feed to be stored and kept in a rat proof, fly-tight building, box or receptacle. (Ord. #3425, March 1998, as replaced by Ord. #4708-19, Nov. 2019 ***Ch12_6-20-20***)

10-116. Pounds, kennels, etc., dangerous or detrimental to human life, etc.. No keeper of any pound, kennel, coop, pen, veterinary hospital or other such place where animals or fowl may be kept or impounded, shall allow the same or any animal therein, by reason of want of care, food, ventilation or

cleanliness or otherwise, to be or to become dangerous or detrimental to human life, health or welfare. (Ord. #3425, March 1998, as replaced by Ord. #4708-19, Nov. 2019 ***Ch12_6-20-20***)

10-117. Right of entry. Upon reasonable suspicion and the attainment of a warrant with proper granted authority, it shall be the duty of the WCJC Animal Shelter Director or designee to enter onto any premises, public or private, at any reasonable hour of the day to make inspections for the purpose of carrying out the provisions of this chapter. (Ord. #3425, March 1998, as replaced by Ord. #4708-19, Nov. 2019 ***Ch12_6-20-20***)

10-118. Enforcement. The civil provisions or this chapter will be enforced by those persons or agencies designated by WCJC Animal Shelter Director. It shall be the duty of anyone having the authority of an animal control officer, humane officer, or City of Johnson City Police Officer to enforce all the terms and provisions of this chapter. Said officers shall be empowered to issue a citation and summons to the municipal court for violations thereof. It shall further be a violation of this chapter to interfere with an animal control officer in the performance of his/her duties. (Ord. #3425, March 1998, as replaced by Ord. #4708-19, Nov. 2019 ***Ch12_6-20-20***)

10-119. Penalties. Any person violating any provision of this chapter shall be punished in accordance with the appropriate provisions of the charter and ordinances of Washington County/Johnson City, and the statutes of Tennessee and charged with a Class A misdemeanor subject to a fine not to exceed fifty dollars ($50.00) and any related fees and expenses incurred by the WCJA Animal Shelter. The fee schedule shall be approved by the WCJC Animal Shelter Board of Directors, may be updated from time to time at the board's discretion, and will be made available at the WCJC facility. Each separate day during which an offense occurs under this chapter shall constitute a separate chargeable offense. For any unattended animal running at large, stray animal, or animals brought to the WCJC Animal Shelter, fees and costs shall be applied as stated in § 10-104(3), (4), (5) and (6). All efforts shall be exhausted in trying to locate the owner of a dog running at large, strays, or animals brought to the WCJC Animal Shelter.

However, in cases where owners cannot be located for a period of three (3) business days, the animal shall become the property of the WCJC Animal Shelter and may be surgically spayed or neutered and put up for adoption or potentially euthanized. If an unaltered registration certificate exists, the shelter will allow an additional three (3) business days to attempt to locate the owner. (Ord. #3425, March 1998, as replaced by Ord. #4708-19, Nov. 2019 ***Ch12_6-20-20***)

CHAPTER 2

SPAY/NEUTER REGULATIONS FOR DOGS AND CATS

SECTION

10-201. Spaying and neutering requirements. Any person owning, keeping, harboring, or having custody of any dog or cat six (6) months of age or older is required to spay or neuter said animal, except:

(1) Persons who own, keep, harbor, or have custody of registered service dogs, or working police dogs, dogs and cats competing in shows and/or sporting competitions, and professional breeders. Each animal who qualifies for exemption in § 10-201(1) is required to have on file an unaltered registration certificate;

(2) Persons who are nonresidents of the city and reside temporarily herein for a period not to exceed a total of thirty (30) days within a twelve (12) month period;

(3) Animal shelters housing animals prior to their being adopted, and veterinary hospitals;

(4) A person who owns, keeps, harbors, or has custody of an animal and who is in possession of a certification signed by a licensed veterinarian stating that the animal is unfit or unable to be spayed or neutered because the procedure would endanger the life of or be detrimental to the health or well-being of the animal. Each animal who qualifies for exemption in § 10-201

(4) Is required to have on file an unaltered registration certificate.

(5) "Dealer" means any person who, for compensation or profit, buys, sells, transports (except as a common carrier), delivers for transportation, or boards dogs or cats for research purposes, or any person who buys or sells twenty-five (25) or more dogs or cats in any one (1) calendar year for resale within the state or for transportation out of the state; dealers must obtain unaltered registration certificates. (as added by Ord. #4513-13, Dec. 2013, and replaced by Ord. #4708-19, Nov. 2019 ***Ch12_6-20-20***)

10-202. Obtaining an unaltered permit. Applicants for unaltered permits must apply to the Washington County/Johnson City Animal Control Center. The fee for the unaltered animal permit shall be twenty-five dollars ($25.00) per animal. A certificate will be issued identifying each animal as an unaltered animal and must be available for inspection at all times. (as added by Ord. #4513-13, Dec. 2013, and replaced by Ord. #4708-19, Nov. 2019 ***Ch12_6-20-20***)

10-203. <u>Enforcement</u>. Registrations for animals who are identified and permitted as unaltered must be indicated on the registration form for each animal and a current unaltered certificate number shall be listed on the registration form. If the owner obtains an unaltered registration certificate after registration, he/she is responsible for contacting the shelter, by email or in person, with an attachment showing the certificate, or a copy of the certificate, in order to update the registration form in the system. If the registration records do not show that there is an unaltered registration certificate, or if the owner does not have written verification of the purchase of a certificate, the animal shall be required to be surgically spayed/neutered prior to return of the animal to the owner, or adoption of the animal to a new owner pursuant to Washington County/Johnson City Code § 10-104 (Impoundment and violation notice). (as added by Ord. #4513-13, Dec. 2013, and replaced by Ord. #4708-19, Nov. 2019 ***Ch12_6-20-20***)

TITLE 11

MUNICIPAL OFFENSES

CHAPTER

CHAPTER 1

OFFENSES--MISCELLANEOUS

SECTION

11-101. State misdemeanor law adopted. No person shall commit within the city any act which, while not specifically prohibited by this Code or other ordinance, constitutes a misdemeanor under the statutes of the state or at common law and punishable by state statute or common law by fine, imprisonment or both. (1985 Code, § 16-1)

11-102. Return of library materials. (1) Any person or persons having been given temporary custody of books or other materials that are owned by the Johnson City Public Library, a free public library of the city, being ninety (90) days past due in returning said books or materials, who after being notified by certified mail sent to the last known address of said person or persons that said library materials are overdue, and who shall fail to return said books or materials so past due within fifteen (15) days when said notice is posted and pay all fines with reference to said books or materials, or in the alternative shall fail to pay to the library the cost of replacing said books or materials, together with all fines with reference to said overdue books or materials, shall be guilty of a misdemeanor.

(2) In the prosecution of this section, failure to return books or other library materials within fifteen (15) days after the posting of the written past-due notice, above mentioned, shall be prima facie evidence of intent to defraud the city.

(3) A violation of this section shall be punishable by a fine in an amount equal to fifty dollars ($50.00) per day each day during which said books or materials shall not be returned, after receipt of notice as hereinbefore provided, or twice the replacement value of said books or materials, not to exceed the aggregate sum computed at the rate of fifty dollars ($50.00) for each day of violation. Said fine may be suspended by the court upon return of said overdue library materials and the payment of the fine for not returning said

materials when due, or upon the payment of the replacement value for such overdue materials and the fine for not returning said materials when due, not to exceed the sum of fifty dollars ($50.00) for each day of violation. (1985 Code, § 16-2)

11-103. Profane, obscene, etc., language. No person shall use profane, obscene or loud and boisterous language upon the public sidewalks of the city. (1985 Code, § 16-5)

11-104. Assault and battery. It shall be unlawful for any person to commit an assault, or assault and battery, or riot or any disorderly conduct. (1985 Code, § 16-6)

11-105. Injuring, defacing, etc., buildings. No person shall wantonly or carelessly injure, deface or disfigure any building, or fixture attached thereto, or the enclosure thereof, or break, injure, destroy or carry away any of the hose, engines, machinery or apparatus of any kind, or any part thereof, belonging to the city. (1985 Code, § 16-7)

11-106. Injuring, defacing, etc., street signs, etc.. No person shall injure, deface or destroy any street sign, guideboard, guidepost, lamppost or lamp or lantern thereon, on any tree, building, fence, post or other thing set, erected or made for the use or ornament of the city, or paint, or draw any word or figure upon any curbstone or sidewalk; or deface any sign, or written or printed notices or placards; and it shall be the duty of the city manager to take cognizance of any violation of the provisions of this section, and report the same immediately to the chief of police. (1985 Code, § 16-8)

11-107. Blasting operations. No person shall blow up stone or earth without a sufficient covering to prevent the rocks, stones or other missles from being thrown up or escaping abroad. (1985 Code, § 16-9)

11-108. Sale of explosive to minor. No person shall sell, offer for sale or give away to any person, under the age of fifteen (15) years, any percussion caps, fuse, powder, dynamite or other explosives. (1985 Code, § 16-10)

11-109. Trespass. No person shall knowingly or wilfully trespass on the premises of another. (1985 Code, § 16-11)

11-110. Occupying private buildings. No person shall move into, or occupy in any manner, any building belonging to any person, society or religious assembly, without permission from the person in charge of such building. (1985 Code, § 16-12)

11-111. Loitering--generally. (1) No person shall loiter in or sit upon any hallway, window ledge or steps leading into any public building, office building, opera house, church or store.

(2) Nor shall any person habitually loiter about any hotel, restaurant, lunch stand, poolroom or other business house, or place of amusement, unless employed therein, or loiter about or upon or along the streets or other public places. (1985 Code, § 16-13)

11-112. Loitering--obstructing streets. No person shall, in a street, obstruct the free passage of foot travelers, by loitering or sauntering therein, nor shall any person, in any street, loiter or saunter after being directed by a police officer to move on. (1985 Code, § 16-14)

11-113. Loitering--between the hours of midnight and 5:00 a.m..

(1) No person shall loiter upon the streets, alleys, sidewalks or other public ways of the city, or in or around public places or public service stations between the hours of midnight and 5:00 a.m. This prohibition shall apply to all persons whether afoot, on horseback or in an automobile or other vehicle, and any person found upon the streets or other public ways, public places or public service stations shall be deemed guilty of loitering, unless their presence thereon or thereat is for the purpose of carrying on some legitimate social, religious, fraternal or professional engagement.

(2) No person shall prowl around the premises of any person at any time. (1985 Code, § 16-15)

11-114. Removal, damage, etc., of personal property. No person shall remove, damage, deface or otherwise interfere with the personal property of another in the city without the consent of the owner of such property, or his agent. (1985 Code, § 16-16)

11-115. Sale, etc., of tobacco to minors. It shall be unlawful for any person, his employees, agents or servants or anyone for him knowingly to sell, to give, to furnish or procure for any person, under the age of eighteen (18) years, tobacco, smoking tobacco, leaf tobacco or tobacco manufactured in any form. (1985 Code, § 16-19)

11-116. Pinball machines--near school. It shall be unlawful for any person to display, operate or offer for use any pinball machines or similar coin-operated machines at any place within the city, within one hundred (100) yards of any public school, such distance to be measure in a straight line from the closest point on the school ground. (1985 Code, § 16-20)

11-117. Pinball machines--nuisance. The operation of pinball machines in violation of § 11-118 is declared to be a public nuisance. (1985 Code, § 16-21)

11-118. Pinball machines--operation by minors. It shall be unlawful for any owner or operator of any pinball machine or similar coin-operated device to allow any person under the age of eighteen (18) years to play or operate such device during regular school hours or during any curfew imposed by law or ordinance. (1985 Code, § 16-22)

11-119. Abandonment of airtight containers. It shall be unlawful for any person to place or permit to remain outside of any dwelling, building, or other structure, or within any warehouse or storage room or any unoccupied or abandoned dwelling, building or other structure, under such circumstances as to be accessible to children, any icebox, refrigerator or other airtight or semiairtight container which has a capacity of one and one-half (1½) cubic feet or more and an opening of fifty (50) square inches or more and which has a door or lid equipped with a latch or other fastening device capable of securing such door or lid shut. (1985 Code, § 16-23)

11-120. Disturbing the peace. It shall be unlawful for any person to disturb the peace of others by violent, tumultuous, offensive or obstreperous conduct or carriage; or, by loud or unusual noises; or by unseemly, profane, obscene or offensive language; or by language calculated to provoke a breach of peace; or by assaulting, striking or fighting another; or for any person to permit any such conduct in or upon any house or premises under his management or control, so that others in the vicinity are disturbed thereby. (1985 Code, § 16-24)

11-121. Vagrancy. No person shall loiter about gambling houses, or houses of ill fame, or stroll through the city without any visible means of support. (1985 Code, § 16-25)

11-122. Begging. No person shall beg or solicit alms for himself or for his family, or any member thereof, within the city. (1985 Code, § 16-26)

11-123. Discharge of firearms, etc.; fires. No person shall discharge any gun, pistol, rifle or other firearm in the city except:

(1) In performance of some duty required by law.

(2) In self defense as necessary to prevent immediate serious bodily injury or death to ones self or others as allowed by state law.

(3) In practice, training or demonstration at a firing range operated by the city or at other ranges constructed, maintained and operated according to nationally recognized standards provided that the firearms devices can be discharged in a manner that will not permit the projectile fired by such devices

to transverse any area outside the range and provided said ranges are granted or issued a permit by the city.

(4) Upon written permission from the board of commissioners.

(5) In use of a shotgun loaded with shells containing number two shot or smaller as long as the point of discharge is not in or upon any street or public place or within one hundred ten (110) yards thereof nor within on hundred ten (110) yards of any building in the city.

No person shall fire any preparation when gunpowder is an ingredient, or which consists wholly of the same, or make any bonfire in or upon any street or public place within the city. (Ord. #3336, Oct. 1995)

11-124. Air guns, slingshots, etc. (1) Definitions. (a) "Air gun/slingshot" means any gun, rifle, or pistol, by whatever name known, which is designed to expel a paintball, dart, missile, projectile, pellet, or BB shot by the action of compressed air or gas, or by the action of a spring or elastic, and includes a sling shot, wrist rocket, and similar devices used to throw BB shot, rocks, and other projectiles, but does not include any firearm.

(b) "Dealer" means any person engaged in the business of selling or renting air guns/slingshots.

(2) Restrictions on sale, rental, gift, or other transfer. (a) It is unlawful for any dealer to sell, lend, rent, give, or otherwise transfer an air gun/slingshot to any person under the age of eighteen (18) years. It is unlawful for any dealer to sell, lend, rent, give, or otherwise transfer an air gun/slingshot to any person without first obtaining photographic identification showing that person's date of birth.

(b) It is unlawful for any person to sell, lend, rent, give, or otherwise transfer an air gun/slingshot to any person under eighteen (18) years of age, except when the relationship of parent and child, guardian and ward, or adult instructor and pupil exists between such person and the person under eighteen (18) years of age.

(3) Restrictions on use. (a) It is unlawful for any person under eighteen (18) years of age to carry any air gun/slingshot on any streets, alleys, public roads, or public lands unless accompanied by an adult; provided, that said person under eighteen (18) years of age not so accompanied may carry such air gun/slingshot unloaded or in a suitable case or securely wrapped.

(b) It is unlawful for any person to discharge any air gun/slingshot from, across, onto, or into any street, sidewalk, alley, public land, or any public place except on a properly constructed target range.

(c) It is unlawful for any person to discharge any air gun/slingshot on any private parcel of land or residence in such a manner that the pellet, paintball, dart, slingshot, BB shot, rock, missile, or other projectile may reasonably be expected to traverse any ground or space

outside the limits of such parcel of land or residence or in such a manner that persons or property may be endangered.

(d) It is unlawful for any person to discharge any air gun/slingshot in such a manner or under such circumstances that persons or property may be endangered.

(4) Exception. Notwithstanding any provision herein to the contrary, it shall be lawful for any person under eighteen (18) years of age to have in such person's possession any air gun/slingshot if it is:

(a) Kept within such person's domicile;

(b) Used by a person under eighteen (18) years of age, who is a duly enrolled member of any club, team, or society organized for education or training purposes and maintaining as a part of its facilities or having written permission to use an indoor or outdoor target range, when the air gun/slingshot is used at such target range under the supervision, guidance, and instruction of a responsible adult; or

(c) Used in or on any private parcel of land or residence under circumstances in which the air gun/slingshots can be fired, discharged or operated in such manner as not to endanger persons or property and in such manner as to prevent the pellet, paintball, dart, BB shot, rock, missile, or other projectile from traversing any grounds or space outside the limits of such parcel of land or residence.

(5) Violation. Anyone violating any provision of this section shall be subject to the general penalty provisions of § 1-104 of the Code of the City of Johnson City, Tennessee. (1985 Code, § 16-28, as replaced by Ord. #4529-14, March 2014)

11-125. Throwing balls, bows, etc.,into streets. No person shall play at any game of ball or football, or throw any stone snowball or other missile, within any street of the city, or have or use for sport, or other purpose, in the streets or other public places, any bow, cross bow, rubber flippers or other devices, by which shot or other projectile is cast, or to shoot from any premises into the streets such devices, so as to endanger life or limb or do injury to person or property. (1985 Code, § 16-29)

11-126. Disturbing lawful assembly or religious service. No person shall molest or disturb any lawful assemblage, or any congregation assembled for religious service, by making a noise, or by rude or indecent behavior or by the use of profane language. (1985 Code, § 16-30)

11-127. Unlawful assembly. Two (2) or more persons shall not assemble with an intent, or being assembled, shall not mutually agree to do any unlawful act with force and violence against the property of the city, or the person or property of another, or against the peace, or the terror of others, or make any movement or preparation therefor. (1985 Code, § 16-31)

11-128. Cemeteries; marking, defacing, etc., monuments, etc.. No person shall throw down, mark, deface or otherwise injure any monument or tombstone in any cemetery, or dig into or disturb any grave within any cemetery, or in any way injure any of the buildings or fences that may be erected for the benefit of any cemetery or burial ground. (1985 Code, § 16-32)

11-129. Drunkenness. No person shall be in an intoxicated condition within the city in any public place, such as a street, square, avenue, alley, hotel, depot, theatre, saloon, restaurant or any other place of public use or assembly. (1985 Code, § 16-33)

11-130. Indecent exposure, language, pictures, etc.. No person shall appear in a public place naked or in a lewd or indecent costume, make an indecent exposure of his person, act in lewd manner or use language or sing songs of a lewd or indecent nature, or exhibit, sell or offer for sale, or give away or keep in stock, any picture, book or other thing, or exhibit or perform any play or other representation of a lewd or indecent nature. (1985 Code, § 16-34)

11-131. Material harmful to minors. (1) As used in this section:

(a) "Harmful to minors" means that quality of any description or representation, in whatever form, of nudity, sexual conduct, sexual excitement or sadomasochistic abuse, when it:

(i) Predominantly appeals to the prurient, shameful or morbid interest of minors; and

(ii) Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and

(iii) Is utterly without redeeming social importance for minors; that is, that the description or representation or work, taken as a whole, lacks serious literary, artistic, political or scientific value.

(b) "Knowingly" means having general knowledge of , or reason to know, or a belief or grounds for belief which warrant further inspection or inquiry or both as to:

(i) The character and content of any material described herein which is reasonably susceptible of examination by the defendant; and

(ii) The age of the minor; provided, however, that an honest mistake shall constitute an excuse from liability hereunder if the defendant makes a reasonable, bona fide attempt to ascertain the true age of such minor.

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

(d) "Nudity" means the showing of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernible turgid state.

(e) "Sadomasochistic abuse" means flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of the one so clothed.

(f) "Sexual conduct" means acts of masturbation, homosexuality, sexual intercourse or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks or, if such person is a female, the breasts.

(g) "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

(2) It shall be unlawful for any person knowingly to sell or loan for monetary consideration to a minor:

(a) Any picture, photograph, drawing, sculpture, motion picture film or similar visual representation or image of a person or portion of the human body which depicts nudity, sexual conduct or sadomasochistic abuse and which is harmful to minors; or

(b) Any book, pamphlet, magazine, printed matter, however reproduced, or sound recording, which contains any matter enumerated in paragraph (a) of subsection (2) hereof, or explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct or sadomasochistic abuse and which, taken as a whole, is harmful to minors.

(3) It shall be unlawful for any person knowingly to exhibit for a monetary consideration to a minor or knowingly to sell to a minor an admission ticket or pass or knowingly to admit a minor for a monetary consideration to premises wherein there is exhibited a motion picture, show or other presentation which, in whole or in part, depicts nudity, sexual conduct or sadomasochistic abuse and which is harmful to minors.

(4) A violation of any provision of this section shall constitute an offense for which there shall be, upon conviction thereof, a fine of fifty dollars ($50.00) for each violation. (1985 Code, § 16-35)

11-132. <u>Fighting, quarreling, etc.</u>. (1) It shall be unlawful for any two (2) or more people to fight within the city, or to quarrel in a rude and boisterous manner, in any public place of the city.

(2) No persons shall assemble upon the public sidewalks of the city and engage thereon in boxing, wrestling or in any other forms of violent amusement commonly called "horse play" to the inconvenience or disturbance of persons using or entitled to use such sidewalks. (1985 Code, § 16-36)

11-133. Contamination of springs, etc.. No person shall contaminate or render impure any spring, well or cistern within the city. (1985 Code, § 16-37)

11-134. Carrying concealed weapons. Except where permitted by state or federal law, no person shall carry publicly or privately for the purpose of going or being armed, any bowie knife, Arkansas toothpick, dirk, or razor concealed about his person, or any sword cane, Spanish stiletto or pocket pistol, revolver, or any kind of pistol, except the army or navy pistol, usually used in warfare, which shall be carried openly in the hand; or any loaded cane, nun chaku, shearkens, machete, slingshot, brass knuckles or other dangerous weapon. (1985 Code, § 16-38)

11-135. Sale of poison--records. Any person who sells or delivers any poisonous liquid or substance in addition to having the word "Poison" printed or written on the label thereof, as required by law, shall note in a book kept by such person for that purpose, the name of the person to whom such poison was delivered, the date of delivery and the kind and amount of such poison so delivered, and shall keep such book open for public inspection. (1985 Code, § 16-39)

11-136. Sale of poison--minors. It shall be unlawful for any person to sell any child under eighteen (18) years of age any poisonous liquid or drug without an order in writing from the parent, guardian or other person having the legal care of such child, designating such liquid or drug either by its name or its effect. (1985 Code, § 16-40)

11-137. Railroad, etc., whistles. No railroad, or other company, or any employees of same, shall blow or cause to be blown unnecessarily, any whistle upon any engine and in no case shall any whistle be blown longer than five (5) seconds, and each offense shall subject such company or employees to a separate fine. (1985 Code, § 16-41)

11-138. Climbing, displacing, etc., utility poles. No person shall climb upon, displace, break, deface or in any way impair or injure any electric lighting poles, wires or lamps, or any of the poles, wires and similar equipment belonging to any electric or other company. (1985 Code, § 16-42)

11-139. Fireworks. (1) It shall be unlawful for any person to sell or offer for sale, or keep in stock, or give away, within the city, or one (1) mile thereof, any firecracker, cannon cracker, torpedo, Roman candle, sky rocket, pin wheel or any fireworks of any nature whatsoever, or any toy pistol or toy cannon, discharged by percussion caps by percussion caps and gunpowder or other means.

(2) No person shall sell, possess or use fireworks of any description within the city; provided, that this section shall not apply to wholesale dealers and jobbers who may possess fireworks for sale to merchants; provided, further, that this section shall not apply to fairs, shows and exhibitors who desire to give fireworks displays for the amusement of the public; provided, that such displays shall be given under the joint supervision of the exhibitor and the city police department so as to protect the health and welfare of the public, but no such fireworks display shall be given without a permit from the city recorder. (1985 Code, § 16-43)

11-140. Smoking, eating, etc., on transit vehicles. Smoking, eating, chewing of tobacco or drinking is hereby prohibited on city transit vehicles (i.e., buses of the city transit system), and each such offense shall be punishable by a fine not to exceed fifty dollars ($50.00). (1985 Code, § 16-44)

11-141. Spitting, etc., upon sidewalks, etc., prohibited. No person shall spit or expectorate, discharge the nose or vomit upon the sidewalk, or upon the floors, walls, doors, counters, furniture, stairways or supports of any opera house, theatre, courthouse, office, auditorium, market house, schoolhouse, hotel or other public building or store, or of any vehicle, conveyance or car, or upon any railway platform or depot, within the city limits. (1985 Code, § 16-45)

11-142. Use of tobacco products on public property, etc., prohibited. (1) No person shall use tobacco products or vapor products on the grounds of any public property, public park, public playground, public greenway, or any public property that is accessible to use by youth as long as the public property, public park, public playground, or public greenway is owned or controlled by the City of Johnson City pursuant to Tennessee Code Annotated, § 39-17-1551(e).

(2) Each such offense shall be punishable by a fine not to exceed fifty dollars ($50.00).

(3) As used in the subsection, "Greenway" shall mean:

(a) An open-space area following a natural or man-made linear feature designed to be used for recreation, transportation, and conservation, and to line services and facilities. If a greenway traverses a park, then the greenway is considered a portion of that park unless otherwise designated by the City of Johnson City; or

(b) A paved, gravel-covered, woodchip-covered, or wood-covered path that connects one (1) greenway entrance with another greenway entrance.

(4) "Playground" means any indoor or outdoor facility that is intended for recreation of children.

(5) "Tobacco product" means any product that contains tobacco and is intended for human use.

(6) "Youth" means any person under twenty-one (21) years of age. (as added by Ord. #4659-18, May 2018, as replaced by Ord. #4776-21, July 2021 ***Ch14_06-16-22***)

CHAPTER 2

ADVERTISING

SECTION

11-201. Distribution of circulars, handbills, samples of medicine, etc., generally. It shall be unlawful for any person to distribute or circulate, or cause to be distributed or circulated, any handbills, cards, posters or flyers or samples of medicine, or tobacco in or upon the streets, alleys, ways or places of the city or in or upon the premises or property of another within the city. Cards or circulars may be placed under the doors of residences or offices or may be handed to persons on the premises or placed inside of business houses, shops or factories. (1985 Code, § 16-63)

11-202. Private premises--generally. (1) No person shall throw, deposit or distribute any commercial or noncommercial handbill in or upon private premises which are inhabited, except by handing or transmitting any such handbill directly to the owner, occupant or other person then present in or upon such private premises.

(2) In the case of inhabited private premises which are not posted, as provided in this chapter, such person, unless requested by any person upon such premises not to do so, may place or deposit any such handbill in or upon such inhabited private premises, if such handbill is so placed or deposited as to secure or prevent such handbill from being blown or drifted about such premises or sidewalks, streets or other public places, and except that mailboxes may not be so used when so prohibited by federal postal law or regulations.

(3) The provisions of this section shall not apply to the distribution of mail by the United States, nor to newspapers; except, that newspapers shall be placed on private property in such a manner as to prevent their being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property. (1985 Code, § 16-64)

11-203. Private premises--when depositing, etc., prohibited. No person shall throw, deposit or distribute any commercial or noncommercial handbill upon any private premises, if requested by any person thereon not to do so, or if there is placed on such premises in a conspicuous position near the entrance thereof, a sign bearing the words: "No Trespassing," "No Peddlers or Agents," "No Advertising" or any similar notice, indicating in any manner that

the occupants of such premises do not desire to be molested or have their right of privacy disturbed, or to have any such handbills left upon such premises. (1985 Code, § 16-65)

11-204. Depositing, etc., handbills in or upon vehicles. No person shall throw or deposit any commercial or noncommercial handbill in or upon any vehicle. (1985 Code, § 16-66)

11-205. Depositing, etc., in or upon vacant, etc., premises. No person shall throw or deposit any commercial or noncommercial handbill in or upon any private premises which are temporarily or continuously uninhabited or vacant. (1985 Code, § 16-67)

11-206. Posting notices, etc., to poles, trees, etc. No person shall post or affix any notice, poster or other paper or device, calculated to attract the attention of the public, to any lamppost, public utility pole or shade tree, or upon any public structure or building, except as may be authorized or required by law. (1985 Code, § 16-68)

11-207. Posting on buildings, fences, etc. No person shall post upon any building, fence, telephone, telegraph or other public service pole, or other structure in the city, any sign, advertisement, picture or notice of any kind, without first having obtained permission so to do from the owner or occupant of such building or other structure. (1985 Code, § 16-69)

CHAPTER 3

PROSTITUTION; ASSIGNATION

SECTION

11-301. Definitions. As used in this chapter, the following definitions apply to those acts proscribed herein:

(1) "Adamitism." The practice of going naked, the state of being unclothed.

(2) "Anilingus." The erotic stimulation achieved by contact between mouth or tongue and the anus.

(3) "Assignation." The making of any appointment or engagement for prostitution or for the purpose of fellatio or cunnilingus, or any act in furtherance of such appointment or engagement.

(4) "Bestiality." Sexual relations between a human being and a lower animal.

(5) "Coprophilia." The use of feces for sexual excitement.

(6) "Cunnilingus." Stimulation of the vulva or clitoris with the lips or tongue.

(7) "Fellatio." The practice of obtaining sexual gratification by oral stimulation of the penis.

(8) "Flagellation." An act or instance of obtaining sexual gratification by beating, flogging or scourging another or being the recipient of such action.

(9) "Frottage." Masturbation by rubbing against another person.

(10) "Masturbation." Erotic stimulation involving the genital organs commonly resulting in orgasm and achieved by manual or other bodily contact or manipulation.

(11) "Prostitution." The giving or receiving of the body for sexual intercourse for hire (or for licentious sexual intercourse without hire).

(12) "Sexual intercourse." Carnal copulation, or coitus, between male and female human beings.

(13) "Sodomy." The penetration of the male organ into the anus of another person.

(14) "Urolagnia." Sexual excitement associated with the sight or thought of urine or urination. (1985 Code, § 16-86)

11-302. Prohibited acts. No person shall:

(1) Engage in prostitution;

(2) Aid or abet prostitution;

(3) Procure or solicit for purpose of prostitution;

(4) Keep or set up a house of ill fame, brothel or bawdyhouse;

(5) Receive any person for purposes of lewdness, assignation or prostitution into any vehicle, conveyance, place, structure or building;

(6) Permit any person to remain for the purpose of lewdness, assignation or prostitution in any vehicle, conveyance, place, structure or building;

(7) Lease or rent or contract to lease or rent any vehicle, conveyance, place, structure or building, or part thereof, knowing or with good reason to know that it is intended to be used for any of the purposes herein prohibited; or

(8) Attempt to do any of the acts prohibited by this section. (1985 Code, § 16-87)

11-303. Commercial sexual practices. (1) It shall be unlawful for any person to procure, offer or to engage in any act of adamitism, anilingus, bestiality, cunnilingus, coprophilia, fellatio, flagellation, frottage, masturbation, sexual intercourse, sodomy or urolagnia for any financial consideration or reward.

(2) The above referred to unlawful acts or conduct, and each and all of the same, are declared to be a nuisance and as such, contrary to the public health, welfare and safety of the citizens and residents of this city.

(3) Any person violating any of the provisions of this section shall, upon conviction thereof, be fined fifty dollars ($50.00) for each violation, and each day of violation of any provision of this section shall constitute a separate violation. (1985 Code, § 16-88)

11-304. Bawdyhouse--abatement. Any person, upon being notified in writing by the recorder, by a notice served by a policeman of the city, that any house, tenement or building in his possession or under his control is being used as a house of ill fame, and who shall fail within two (2) days after the service of such notice, to institute proceedings to eject therefrom the tenant, so using such house, tenement or building, if such tenant shall not sooner have vacated the same, shall be deemed and held to be guilty of permitting such premises to be used for the purposes prohibited in this chapter. It is further provided that the words "house of ill fame" shall be taken to mean and include the terms "bawdyhouse" and "assignation house." (1985 Code, § 16-100)

11-305. Being found in or inmate of bawdyhouse. It shall be unlawful for any person to be an inmate of a house of ill fame, or to be found in such house for lewd purpose. (1985 Code, § 16-101)

11-306. Solicitation. It shall be unlawful for any person notoriously abandoned to lewdness to stand upon the sidewalk in front of the premises occupied by such person, or at the alleyway, door or gate of such premises, or to sit upon the steps thereof in an indecent posture, or accost, or stop any person passing by, or to solicit any person on any street or public place to accompany or to meet such person at any place for purposes of prostitution or other violation of this chapter. (1985 Code, § 16-102)

CHAPTER 4

GAMBLING

SECTION

11-401. Possession of wagering stamp. (1) It shall be unlawful for any person within the city to possess a federal wagering stamp as provided by the provisions of the Revenue Act of 1951, enacted by the Congress of the United States.

(2) The possession of a federal wagering stamp by any person within the city shall be prime facie evidence that such person is engaged in gambling or wagering in violation of this code and the laws of the United States prohibiting gambling and wagering, and that the filing of a tax return and payment of the wagering tax required by the provisions of the Federal Revenue Act of 1951 to the revenue collector by any person within the city shall be conclusive evidence of the violation of this code and the laws of the state by such person.

(3) If any person holding a federal wagering stamp is listed on the tax return as an employee of a holder of a wagering stamp it shall be conclusive evidence of the violation of this code and of the laws of the state by such employee. (1985 Code, § 16-119)

11-402. Possession of gambling devices--prohibited. No person shall have in his possession any gambling table, slot machine, punchboard or other gambling device whatever for the enticement of any person to gamble; provided, however, that this section shall not apply to pay toilets, scales or weighing machines, stamp machines and vending machines, which actually deliver merchandise of a value equal to the amount of money deposited in such machine. (1985 Code, § 16-120)

11-403. Possession of gambling devices--destruction by police. The police department shall destroy all gambling tables, slot machines, punchboards and gambling devices found in the city. (1985 Code, § 16-121)

CHAPTER 5

NOISE

SECTION

11-501. Definitions. All terminology used in this chapter, not defined below shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body. The following words and phrases shall have the meanings respectively ascribed to them by this section:

(1) "A-weighted sound level (dBA)." The sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The unit of measurement is dB(A).

(2) "C-weighted sound level (dBC)." The sound pressure level in decibels as measured on the sound level meter using the C-weighted network, which is more sensitive to low-frequency content of a complex sound environment. The unit of measurement is designated dBC.

(3) "Decibel (dB)." Logarithmic unit of measure used in describing the relative level of sound. The unit of measurement is dB.

(4) "Low frequency ambient." The lowest sound level repeating itself during a ten (10) minute measurement period utilizing the dBC slow response weighting. "Low-frequency ambient" is ascertained with the sound turned off at the source of a complaint. Measurement shall be made at the same complaint location for a comparison of the ambient sound level and the sound emanating from the source of a complaint. The ambient sound level shall not be less than 45 dBC for interior residential noise as measured five feet (5') above the floor in the center of a room or 55 dBC for all exterior locations measured at a height of five feet (5') above the ground at any point along or within the property lines as set forth in § 11-503.

(5) "Motor vehicle." Any two (2) or more wheeled vehicle or machine, propelled or drawn by mechanical power and used in the transportation of passengers or property. This shall not include vehicles, locomotives or cars operated exclusively on rail or rails.

(6) "Noise." Any sound which exceeds the maximum permissible sound levels by land use categories as specified in this code and which annoys or disturbs humans and causes or tends to cause an adverse psychological or physiological effect on humans.

(7) "Residential zone." Any location where residential uses are permitted in the Zoning Code of the City of Johnson City, Tennessee.

(8) "Sound level." In decibels, the A-weighted or C-weighted sound pressure level obtained by the use of a calibrated Type 1 or Type 2 sound level meter as specified by the American National Standards Institute [ANSI S1.4-1983 (R2006)/ANSI S1.4a-1985 (R2006)]).

(9) "Sound level meter." An instrument for measuring sound, including a microphone, amplifier, output meter and weighting network which is sensitive to pressure fluctuations and shall be at least Type II per ANSI S1.4-1983 specifications. (Ord. #3251, Oct. 1994, as amended by Ord. #4508-13, Oct. 2013)

11-502. Standards. (1) Sound level measurements shall be made with a properly calibrated sound level meter which meets or exceeds the requirements of this chapter and is operated by persons trained in sound level measurement and the operation of sound level measurement equipment.

(2) Sound level measurement shall be made with a sound level meter using the A-weighting scale set on "slow" response for all measurements except that when measuring motor vehicle sounds, "fast" response shall be used.

(3) For low frequency sound including but not limited to music produced by amplification or for any live entertainment (whether amplified or not) or any combination of the same, sound level measurements shall be made using the C-weighting scale set on "slow" response for all measurements. (Ord. #3251, Oct. 1994, as replaced by Ord. #4508-13, Oct. 2013)

11-503. Maximum permitted sound levels in residential zones.

(1) Except as exempted in § 11-506 below, no person, regardless of location, shall operate or cause to be operated any source of sound in such a manner as to create a sound level which, at its maximum, exceeds the limits set forth in this section (noise) when measured at a height of five feet (5') above the ground at any point on the property lines of a complaining residence or within the property lines of a complaining residence. Physical features which are commonly associated with property lines such as back of curb, telephone and street light poles, edge of driveway or parking lot, hedges, perimeter landscape strips, buffers, and fences are presumed to be at a point which is at or within the property lines.

(2) Sound which originates from a dwelling unit in a duplex or other multi-family housing unit or from a source outside the interior walls of a dwelling unit in a duplex or other multi-family housing unit shall be measured within the complaining dwelling unit at a point at five feet (5') above the floor at the center of any room.

(3) The following standards shall govern the allowable sound levels in any residential zoning district. Unless exempted per § 11-506, no noise shall exceed the limits specified below:

(a) Nighttime -- 55 dBA between 11:00 P.M. and 7:00 A.M.

(b) Daytime -- 75 dBA between 7:00 A.M. and 11:00 P.M.

(c) Any time -- 8 dBC above the low frequency ambient noise level as defined in § 11-501. (Ord. #3251, Oct. 1994, as amended by Ord. #3600, July 1998, and replaced by Ord. #4508-13, Oct. 2013)

11-504. Maximum permitted sound levels for motor vehicles.

(1) It shall be unlawful for any person to operate or cause to be operated a public or private motor vehicle, motorcycle or combination of vehicles at any time in such a manner that the sound level of the vehicle exceeds the levels set forth in Table 1 below:

TABLE 1

MAXIMUM MOTOR VEHICLE SOUND LEVEL (dBA)

Vehicle class	Speed limit 35 mph or less	Speed limit over 35 mph
Any motor vehicle with a gross vehicle weight rating (GVWR) of less than 10,000 pounds	81	85
Any motor vehicle with a GVWR of more than 10,000 pounds	89	94
Motorcycles	81	85
Any other motor vehicle or any combination of vehicles towed by any motor vehicle	76	80

(2) Sound levels are to be measured at a distance of at least fifty (50) feet from the noise source and at a height of at least four (4) feet above the surrounding surface. (Ord. #3251, Oct. 1994)

11-505. Nuisance noises expressly prohibited. To the extent that they exceed the sound levels set forth in §§ 11-503 or 11-504, the following specific acts are declared to be in violation of this chapter:

(1) Animals. The keeping of any animal, bird or fowl which makes frequent or long, continued noise;

(2) Noise sensitive zone. The creation of any excessive noise heard within any school, public building, church or any hospital, or the grounds thereof, while in use, which interferes with the workings of such institution;

(3) Loudspeakers, etc. The use of any loudspeaker, drum, or other device for the purpose of attracting attention to any performance or sale or display of merchandise.

(4) Places of entertainment, etc. With respect to any place of entertainment or any place where amplified sound is produced, or at any place which is the source of a complaint of vibrations emanating from any location, in

addition to the dBA criteria above, a secondary low frequency dBC criteria shall apply. No sound or music associated with a location that is the subject of a complaint shall exceed the low frequency ambient sound level as defined in § 11-501 by more than 8 dBC. (Ord. #3251, Oct. 1994, as replaced by Ord. #4508-13, Oct. 2013)

11-506. Exceptions. The following are exempt from the sound level limits specified in §§ 11-503 and 11-504 of this code:

(1) Any vehicle or employee of the city, while engaged upon public business;

(2) Construction operations between the hours of 7:00 A.M. and 9:00 P.M. for which building permits have been issued or construction operations for which no permit is required, provided that all construction equipment is operated according to manufacturer's specifications and mufflers are maintained in proper working order;

(3) Excavations or repairs of bridges, streets, highways, sidewalks, utilities, or other public works by or on behalf of the city, county, state, or utility company, during the night, when the public welfare and convenience renders it impossible to perform such work during the day;

(4) Domestic power tools, lawn mowers, and agricultural equipment, between the hours of 7:00 A.M. and 9:00 P.M. provided it is properly operated with all manufacturer's standard sound-reducing equipment in place and in proper operating condition;

(5) Safety signals and alarm devices and the authorized testing of such equipment;

(6) Sounds from nonamplified church bells and chimes;

(7) Sounds resulting from a parade, scheduled outdoor athletic event, fireworks display, or any event which has been sanctioned by the city;

(8) Sounds resulting from a street fair or block party between the hours of 7:00 A.M. and 11:00 P.M.;

(9) Sounds from trains and other associated railroad rolling stock when operated in proper repair and manner;

(10) Religious or political gatherings and other activities protected by the First Amendment to the United States Constitution. (Ord. #3251, Oct. 1994, as replaced by Ord. #4508-13, Oct. 2013)

11-507. Enforcement and penalties. (1) For purposes of this chapter, either the owner, occupant, or manager of the real property from which a noise violation originates shall be responsible for remedying the violation and liable for any costs or fines which result from the violation.

(2) Any person or organization found to be in violation of §§ 11-503, 11-504, or 11-505 of this code shall receive a citation charging him (it) with a misdemeanor which may result in a fine of not more than fifty dollars ($50.00) for each separate violation. Upon issuance of a notice of violation, the responsible party shall correct said violation immediately or be cited for an additional violation. (Ord. #3251, Oct. 1994, as replaced by Ord. #4508-13, Oct. 2013)

CHAPTER 6

FALSE ALARMS

SECTION

11-601. Purpose. The purpose of this chapter is to encourage alarm end users to use and maintain alarm systems in order to improve the reliability of alarm systems and reduce or eliminate false alarms.

These regulations also establish penalties for violations for repeated summoning of emergency personnel when and where an emergency did not exist. (1985 Code, § 16-151, as replaced by Ord. #4559-14, Sept. 2014)

11-602. Definitions. (1) "Alarm company" means a person(s) in the business of selling, providing, maintaining, servicing, replacing, or monitoring alarm systems.

(2) "Alarm dispatch" means a notification to the Washington County Emergency Communications District (911) for alarms within the city limits of Johnson City, Tennessee (including those areas within Washington, Carter, and Sullivan Counties), the police department, fire department, or emergency medical services that an alarm is activated, and the appropriate emergency responders are notified or dispatched. This definition includes hold-up alarms as well as alarms commonly referred to as duress or panic alarms.

(3) "Alarm site" means the point of origin of the alarm at a street address that appears in the alarm dispatch notification to the Washington County Emergency Communications District (911) for alarms within the city limits of Johnson City, Tennessee (including those areas within Washington, Carter, and Sullivan Counties). For multi-family residential complexes that contain two (2) or more individual units or apartments, an alarm site shall be defined as the street address of the multi-family residential complex in its entirety and not an individual unit or apartment within the complex, unless a tenant of the complex installs or causes to be installed an alarm system or has a contract for monitoring or maintenance of an alarm system, in which case that tenant's apartment/unit shall be the alarm site and that tenant shall be the alarm user.

(4) "Alarm system" means a device or series of devices, including, but not limited to, hardwired systems and systems interconnected with a radio frequency method such as cellular or private radio signals, which emit or transmit a remote or local audible, visual, or electronic signal indicating an alarm condition and intended to summon law enforcement or other emergency responders, including local alarm systems that may be audible only. Alarm

system does not include an alarm installed in a vehicle or on someone's person unless the vehicle or the personal alarm is permanently located at a site.

(5) "Alarm user" means any person, company, institution, or other commercial, public, or private entity that has contracted for monitoring, repair, installation, or maintenance service from an alarm company or monitoring company for an alarm system, or any of the above-listed persons or entities that own or operate an alarm system which is not monitored, maintained, or repaired under contract.

(6) "Cancellation" means the process by which a response is terminated when a monitoring company for the alarm site, designated by the alarm user, or other qualified person, notifies the Emergency Communications District or the responding emergency service that there is not an existing situation at the alarm site requiring an emergency response after an alarm dispatch request.

(7) "False alarm" means an alarm dispatch to an emergency service provider, when the responding emergency service provider finds no evidence of an emergency or criminal offense or attempted criminal offense or fire or medical emergency, after having completed an investigation of the alarm site. This definition includes, but is not limited to, mechanical failure, malfunction, improper installation and maintenance, or the negligence of the owner or lessee of an alarm system or his/her/its employees or agents, but does not include alarm activation caused by violent conditions of nature or other extraordinary circumstances not reasonably subject to the control of the alarm user or alarm company.

Each alarm site will be granted three (3) false alarm violations within a rolling, twelve (12) month period before enforcement action is commenced, except in the case of a malicious or intentional sounding or activation of an alarm. The three (3) false alarm violations are counted separately for each emergency responder - police, fire, and emergency medical services. Malicious or otherwise intentional alarm sounding or activation that requires a response is considered enforceable immediately without consideration of previous alarm dispatches. Additionally, a malicious false alarm may be prosecuted under state law. A false alarm also includes a hold-up alarm or robbery alarm, which generally result from alarm signals generated by the manual activation of a device intended to signal a robbery in progress, or immediately after it has occurred, when such an emergency did not exist. (1985 Code, § 16-152, as replaced by Ord. #4559-14, Sept. 2014)

11-603. <u>Enforcement</u>. (1) Officers of the Johnson City Police Department are authorized to enforce this chapter as it applies to alarms necessitating a police department response.

(2) Fire Marshals of the Johnson City Fire Department are authorized to enforce this chapter as it applies to alarms necessitating a fire department response.

(3) Officers of the Johnson City Police Department are authorized to enforce this chapter as it applies to alarms necessitating an emergency medical

response, at the request of the director of the Washington County/Johnson City Emergency Medical Services.

(4) Persons responsible for compliance with the terms of this chapter include alarm site property owners, alarm users, lessees, managers, employees, or anyone who exercises control over the alarm system of a business or residence, as the case may be. (1985 Code, § 16-153, as replaced by Ord. #4559-14, Sept. 2014)

11-604. Violations and penalty. (1) Any instance where emergency responders are dispatched to investigate an alarm, wherein the alarm is determined to be false, is considered a violation of this chapter. A fine of up to fifty dollars ($50.00) for each such false alarm may be assessed by the Johnson City Municipal Court.

(2) An alarm dispatch that is cancelled prior to the emergency services arrival will not be considered a countable false alarm.

(3) It is a violation of this chapter for an alarm company to activate a false alarm while installing, repairing or doing maintenance work on an alarm system. If the fire or police department is notified to cancel the call prior to arrival, it will not be considered a false alarm.

(4) In addition to the penalty in subsection (1), the municipal court may assess and render a judgment for the actual costs of the response, including but not limited to the costs of the equipment, fuel, personnel, and supplies. (1985 Code, § 16-154, as replaced by Ord. #4559-14, Sept. 2014)

11-605. -- 11-612. [Repealed]. (as repealed by Ord. #4559-14, Sept. 2014)

CHAPTER 7

HAZARDOUS MATERIALS

SECTION

11-701. Release of hazardous materials unlawful. It shall be unlawful for any person, firm or corporation to release or cause to be released, burn or cause to be burned, emit, spill, or leak any hazardous material, as defined herein. (Ord. #3676, April 1999)

11-702. Definitions. (1) The term "hazardous material" shall be defined as any substance or material leakage, release, seepage, or emission of which, due to its form, concentration, quantity, location, or other characteristics, as determined by the emergency management agency director or his/her duly authorized representative, was likely to pose an unreasonable and inordinate risk to the life, health, or safety of persons or property or to the ecological balance of the environment. The term "hazardous material" shall include, but not be limited to, explosives, reactive, flammable and combustible liquids, compressed gasses, flammable and water reactive solids, oxidizers and peroxides, poisons, radioactive materials, biohazardous waste, or otherwise regulated materials, or any other substance determined to be dangerous, hazardous, or toxic under any federal or state law, statute or regulation.

(2) The term "hazardous material incident" shall be defined as the leakage, release, seepage, or emission of any substance or material defined as "hazardous material hereinabove. (Ord. #3676, April 1999)

11-703. Liability for costs associated with cleanup, etc. (1) Any persons, firms, corporations, or other entities owning, shipping, or in the immediate control or possession of hazardous materials involved in any hazardous materials incident shall bear full responsibility for and be jointly and severally liable for any and all costs associated with the response to, abatement, handling, and cleanup of said hazardous materials as well as the remediation of any consequence associated with said incident. All such cost shall be reimbursed to the City of Johnson City, and shall include, but not be limited to, the costs and expenses incurred by the fire bureau, the hazardous material response team, the labor cost of all personnel involved in the abatement or cleanup of the aforementioned incident including workers compensation benefits, fringe benefits and administrative overhead or any other expenses, medical expenses, whether immediate or long-term, of personnel exposed to hazardous material, costs of equipment operation, maintenance, repair or replacement, equipment rental, all costs of material ordered by the City of

Johnson City involving hazardous materials abatement, the cost of any labor and materials expended by retaining or requesting other parties or entities to assist in the cleanup and abatement, as well as repair, mediation or remediation of any nature whatsoever including cost incurred by other municipalities or agents who respond to the hazardous materials incident through mutual aid or automatic aid agreements. In addition, all such parties shall be responsible for and shall promptly pay any and all such costs incurred by third parties by reason of such hazardous material incidents, whether the same are billed to and paid by the city or not.

(2) Reimbursement shall be due and payable thirty (30) days from the date of an invoice prepared by the Finance Department of the City of Johnson City or the Johnson City Hazardous Materials Response Team. Accounts which exceed the thirty (30) day limit shall bear interest charges at a rate to be established by the Board of Commissioners of the City of Johnson City by resolution. (Ord. #3676, April 1999)

11-704. Effect of chapter on other obligations, etc. Nothing in this chapter should be deemed to relieve any party from any other obligation or responsibility that it might otherwise have under law or equity. (Ord. #3676, April 1999)

11-705. Penalty. In addition to the reimbursement of costs as set forth hereinabove, any person, firm, corporation, or other entity who causes a hazardous materials incident as defined hereinabove shall be subject to a monetary penalty of five hundred dollars ($500) for each such offense. (Ord. #3676, April 1999)

TITLE 12

BUILDING, UTILITY, ETC. CODES[1]

CHAPTER

CHAPTER 1

MISCELLANEOUS

SECTION

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[1]Charter references

Publication of ordinances: § 34.
Public buildings: § 7.19.
Regulation and inspection of buildings: § 7.26.
Regulations of public utilities: § 7.15.
Sanitation charged against abutting property: § 7.18.

State law references

Building regulations: Tennessee Code Annotated, § 68-120-101, et seq.
Contractors Licensing Act of 1994, Tennessee Code Annotated, § 62-6-101, et seq.
Local licensing of builders and contractors: Tennessee Code Annotated, § 7-62-101, et seq.
Ordinances incorporating by reference: Tennessee Code Annotated, § 6-54-501, et seq.
Public building authorities: Tennessee Code Annotated, § 12-10-101, et seq.

12-101. Applicability of title. The provisions of this title shall apply to any and all activities related to work being done in the construction, installation, repair or alteration of structures and electrical, plumbing, steamfitting, gas or mechanical systems, within the corporate limits of Johnson City. (Ord. #3442, March 1997)

12-102. Business license and bond required. Before any person shall engage in the business of building, plumbing, steamfitting, electrical wiring, gas installations or mechanical installations, he shall first obtain the proper business license and deposit with the city a good and sufficient surety bond in the sum of ten thousand dollars ($10,000.00), to be approved by the board of commissioners, conditioned that the person engaged in the said business will faithfully observe all the laws pertaining to the craft, and further, that the city shall be indemnified and saved harmless from any and all loss, harm, and injury of any kind or nature whatsoever arising from any act or omission committed by any person in connection with the said business. (Ord. #3442, March 1997)

12-103. Permits. (1) Requirement. A person, firm or corporation shall not erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish any sign, building or structure, nor shall any person, firm or corporation install, enlarge, alter, repair, move, improve, remove, convert or replace any gas system, plumbing system, electrical system or mechanical system of a building or structure, or cause the same to be done, without first obtaining a permit for such project from the chief building official. No plumbing permit or inspection shall be required for the replacement of a plumbing fixture, as long as no drainage pipe, drainage vent, or water supply is being installed or rerouted. No electrical permit shall be required for the installation or replacement of equipment such as lamps and of electrical utilization equipment approved for connection to suitable permanently installed receptacles, replacement of switches, fuses, light fixtures, and other minor maintenance and repair work, provided no additional increase in circuit ampacity is required. No electrical permit shall be required for the process of manufacturing, testing, servicing, or repairing electrical equipment or apparatus. The foregoing exceptions do not relieve any person, firm, or corporation from the obligation to meet all applicable code requirements regarding the work performed. Notwithstanding any provision to the contrary, the chief building official in his/her discretion may require permits on any of the foregoing listed items, when he/she deems it necessary for the public's safety and welfare.

(2) Drawings and specifications to be submitted for review. When required by the chief building official, two (2) or more copies of specifications and

of drawings drawn to scale with sufficient clarity and detail to indicate the nature and character of the work shall accompany the application for a permit. Such drawings and specifications shall be in a form approved by the chief building official such as traditional paper drawings or electronic graphic files submitted on CD or other equivalent storage media.

(3) Permit fees and assessments. Permit fees and assessments under this title shall be fixed from time to time by the board of commissioners and posted in the office of the chief building official. (Ord. #3442, March 1997, as replaced by Ord. #4113-05, July 2005, and amended by Ord. #4758-20, Jan. 2021 ***Ch13_05-06-21***)

12-104. Inspections. (1) Requirements. It shall be the duty of the chief building official to inspect or cause to be inspected, and reject or approve, all work for which permits are required and to issue, or cause to be issued, orders for the modification, repair or improvement of any construction, installation, equipment or appliances not in conformity with the requirements of this title.

(2) Inspection fees. An inspection fee as fixed from time to time by the board of commissioners and posted in the office of the chief building official shall be imposed on any contractor/owner for the third and each additional inspection of the same type and location. Such fees are to be paid prior to such third or subsequent inspection. (Ord. #3442, March 1997)

12-105. Right of entry. Whenever necessary to make an inspection or enforce any of the provisions of this title, or whenever the chief building official or his or her authorized representative has reasonable cause to believe that there exists in any building, structure or upon any premises any condition or code violation which makes such building, structure or premises unsafe, dangerous or hazardous, the chief building official or his or her authorized representative may enter such building, structure or premises at all reasonable times to inspect the same or to perform any duty imposed upon the official by this title, or as provided by law. If such building, structure or premises is occupied, he or she shall first present proper credentials and request entry. If such building, structure or premises is unoccupied, he or she shall first make a reasonable effort to locate the owner or other persons having charge or control of the building, structure or premises and request entry. If such entry is refused, or such person cannot be found, the chief building official or his or her designee shall have recourse to every remedy provided by law or equity to secure entry. When the chief building official or his or her designee shall have first obtained proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having or asserting charge, care or control of any building, structure or premise shall fail or neglect to promptly permit entry thereto by the chief building official or his or her authorized representative. (Ord. #3442, March 1997)

12-106. Temporary/partial occupancy. A temporary/partial certificate of occupancy may be issued for a portion or portions of a building which may safely be occupied prior to final completion of the project as deemed necessary by the chief building official and provided:

(1) A monetary amount in the form of an irrevocable letter of credit or a cashier's check made payable to the City of Johnson City to cover the cost of completing said project is deposited with the city, or a performance bond may be provided on commercial/industrial projects if the contractor is in good standing with the board of building codes; and

(2) A contract is executed with the contractor, property owner, and the city stipulating the date of final completion and remedial actions for non-compliance. The amount of said deposit and completion date shall be determined by the chief building official or his/her representative. Upon completion of the project within the specified time limit, and approval by the chief building official, said monetary amount in its entirety shall be returned to the responsible agent or agency at the earliest possible date. If work is not completed as specified by city codes and ordinances, the city shall use the deposited amount to complete work as necessary to conform to code requirements or seek appropriate remedy through the courts as permitted by law. The party assigned the permit and the property owner shall be responsible and pay for any city administrative or legal fees and court costs associated with obtaining a proper final certificate of occupancy. (Ord. #3442, March 1997)

12-107. Unsafe buildings. All buildings or structures which are unsafe, unsanitary, or not provided with adequate egress, or which constitute a fire hazard and are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health by reason of inadequate maintenance, neglect, dilapidation, obsolescence, or abandonment, are hereby declared unlawful. (Ord. #3442, March 1997)

12-108. Chief building official to disconnect dangerous building systems. The chief building official shall have the right to summarily disconnect any dangerous, hazardous, defective or unsafe electrical wiring systems, gas system or mechanical system, in or upon any building, structure or premises from its source of supply, and the chief building official shall have the right to summarily disconnect a potable water supply to any building when the plumbing system becomes defective causing sewage to accumulate and thereby presenting a health hazard to the occupants thereof. When such disconnection has been made after following procedures, if any, prescribed by law, the system shall not be reconnected to its source of supply until a certificate of occupancy has been issued by the chief building official. (Ord. #3442, March 1997)

12-109. Issuance to certain dealers, installers. In order to protect the public safety, no permit shall be issued for the installation of gas appliances except to qualified licensed gas appliance dealers or to a qualified and licensed installing agency. (Ord. #3442, March 1997)

12-110. Appeals. Any person taking exception to any decision rendered by the chief building official in construing the provisions of this chapter may appeal to the Johnson City Board of Building Codes within (20) days from the date of receipt of a certificate of occupancy by filing a written appeal with the city recorder and paying a filing fee of fifty dollars ($50.00). Failure to file such appeal within the prescribed twenty (20) day period shall constitute a waiver. Should the appellant prevail in the appeal, the fifty dollar ($50.00) fee shall be returned. (Ord. #3442, March 1997)

12-111. Provisions. The provisions of this title shall be strictly construed, and in the event of any conflict between any of the provisions of this title or of any code adopted by incorporation into the code of the City of Johnson City, the most stringent of said provisions shall apply. (Ord. #3442, March 1997)

12-112. Fire district. The fire limit boundaries are hereby established as being coextensive with the boundaries of the B-2 Central business district of the City of Johnson City, Tennessee. (as added by Ord. #4113-05, July 2005)

CHAPTER 2

BOARD OF BUILDING CODES

SECTION

12-201. Creation and appointment. A board of building codes is hereby established and shall supersede reference to any board in any code adopted by reference in this chapter. The board shall consist of seven (7) members as follows:

One (1) Professional Registered Engineer;
One (1) Electrical Contractor;
One (1) Plumbing Contractor;
One (1) Mechanical/Gas Contractor;
One (1) Residential Building Contractor;
One (1) Commercial Building Contractor;
One (1) Registered Architect.

Each board member, shall be a resident of the City of Johnson City and shall have at least five (5) years experience engaged in such business in the city. Each board member shall be licensed by appropriate governmental jurisdiction in their respective trade or profession. Board members shall be appointed by the board of commissioners for terms of three (3) years, initially appointed as follows:

Two (2) members for a term of one (1) year;
Two (2) members for a term of (2) years;
Three (3) members for a term of three (3) years.

Vacancies shall be filled for any un-expired term by the board of commissioners. Failure of any members to continue to reside in the city shall cause that member's seat to be vacant. The term "resident" as such herein shall mean "one who actually lives in the City of Johnson City, Tennessee, as distinguished from his/her domicile or place of temporary sojourn." (Ord. #3442, March 1997)

12-202. Procedure. Meetings of the board of building codes shall be held on the first Tuesday of each month. Called meetings may be held upon the call of the chairman, chief building official, or concurrence of any three (3)

members of the board. The board members shall elect by majority vote a chairman and vice-chairman. The chairman or, in his absence the vice-chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall adopt rules of procedure and shall keep records of applications and action thereon as well as minutes of all proceedings, which shall be public records. (Ord. #3442, March 1997)

12-203. Removal from office. The board of commissioners shall have the authority to remove any member of the board of building codes pursuant to this chapter for non-feasance, misfeasance or malfeasance in office. Furthermore, the board of commissioners may remove any member who misses three (3) regularly scheduled meetings within one (1) calendar year. (Ord. #3523, Nov. 1997)

12-204. Powers. The board of building codes shall have the following powers:

(1) Administrative review. The board shall hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, permit, decision, determination or refusal made by the chief building official or other administrative official in the interpretation, implementation or enforcement of any provision of this title. Decisions shall be rendered by majority vote of the board and shall be administratively final.

(2) Johnson City Tradesman Certification. It shall be unlawful for any plumber, steamfitter, gas installer, mechanical installer, or electrician to receive a business license or permit to practice his trade or profession in the city without first having passed an examination to be given or authorized to be given by an appropriate testing authority by the board of building codes and having had issued to him a Johnson City Tradesman Certification and bond and business license to practice and engage in such business or profession for which he is licensed. If the contractor is Tennessee State Licensed within the appropriate trade, he is exempt from certification testing as defined in this subsection.

(3) Johnson City Tradesman Certification Card. The board shall issue a Johnson City Tradesman Certification Card or work privilege card to persons passing appropriate testing requirements as determined and administered by the board to conduct business pursuant to this chapter within the corporate limits of Johnson City. The board of building codes shall have the right to prescribe the form of individual identification on job sites sufficient to evidence trade qualifications and authorization to practice the same. The evidence shall be presented upon request to representatives of the agency in authority. If the contractor is Tennessee State Licensed within the appropriate trade, he shall be exempt from certification identification as defined in this subsection.

(4) Revocation of certification. The board shall hold public hearings for consideration of any cancellation, revocation or suspension of trade certifications, in a process as specifically outlined in § 12-204(7) of this chapter.

(5) Certification--owner/occupant. Nothing in this chapter shall prevent the owner of a single family residence who occupies such property as his principal residence from performing work within his own property boundaries. However, with the exception of installation of sewer and water lines connecting to mobile homes, it shall be unlawful for any such owner/occupant of a single family structure or accessory structure to perform work on plumbing (to include installation of residential water and sewer lines), electrical, structural construction or mechanical systems within his own property boundaries without first having passed an examination (modified for single family structures) to be given by the board, chief building official, or his/her designee, and having received the necessary permits issued to said owner/occupant. If the examination is failed, such owner/occupant must wait a period of ten (10) days before retesting. Examinations and certification are not permitted hereunder for gas systems.

(6) Exception--utility lines. Sanitary sewer and water service lines for commercial and industrial sites may be installed from public water and sewer connections at the property line to within three (3) feet of the building. These lines may be installed by non-certified utility contractors. Such contractors, however, must hold a current Tennessee State License as a utility contractor.

(7) Revocation. A city certification issued under this chapter shall be subject to cancellation, revocation or suspension by the board of commissioners after recommendation of the board of building codes for infraction or violation of the requirements of any section of this code relating to the trade or practice of the trade, profession or craft as mentioned in the license, or if, in the majority judgment of the board of commissioners the licensee has shown himself unqualified or has become disqualified to practice his trade, profession or craft in the proper way and manner. Any certification may be cancelled, revoked, or suspended only after a show cause hearing is held by the board of commissioners upon issuance of a ten (10) day written notice to the certification holder advising of such hearing.

(8) Terms. Any Johnson City Tradesman Certification, once issued under § 12-204(2), shall continue in effect for a period of one (1) year unless and until cancelled or revoked in the manner provided.

(9) Fees--generally. Individuals holding a Johnson City Tradesman Certification shall pay an annual fee or a reinstatement fee if applicable in the amount as established from time to time by the board of commissioners for the privilege of conducting work within the boundaries of the city. A work permit shall not be issued to conduct work within the city until this fee is satisfied and a current certification card or work privilege card is issued by the board of building codes. All fees charged by the city under this chapter shall be paid directly to the city and deposited into the general fund. If the contractor is

Tennessee State Licensed within the appropriate trade, he shall be exempt from fees assessed pursuant to this subsection, but shall register with the city and pay an appropriate charge to be set by the board of commissioners for such registration. (Ord. #3442, March 1997, as amended by Ord. #3463, March 1997, and Ord. #4758-20, Jan. 2021 ***Ch13_05-06-21***)

12-205. Availability of printed copies. Ordinance No. 3442, being title 12 of the Code of the City of Johnson City, Tennessee, shall be copied in one (1) volume and printed. Copies shall be on sale at the office of the city recorder at a cost per copy fixed from time to time by resolution by the board of commissioners. (Ord. #3442, March 1997)

12-206. Fees--generally. Fees for hearing appeals, considering regulatory changes, special called meetings and publication fees shall be established from time to time by resolution by the board of commissioners. (Ord. #3442, March 1997)

CHAPTER 3

STANDARD CODES ADOPTED

SECTION

12-301. Codes adopted. The following codes are hereby adopted by reference as though they were copied herein fully:

(1) International Building Code, 2018 edition and appendix D, Fire district. To be amended as follows:

Chapter 13, Energy Efficiency is Deleted and International Energy Conservation Code as adopted in Section 12-301(9) of this code shall apply.

(2) International Residential Code, 2018 edition, with appendix Q, Tiny Homes. To be amended as follows:

Section R313 Automatic Fire Sprinkler Systems is not mandatory, pursuant to T.C.A § 68-120-101(a)(8).

Chapters 34-43 relating to Electrical Installations are deleted and replaced with National Electrical Code, NFPA 70, 2017 edition as published by the National Fire Protection Association and adopted in section 12-301(8) of this code shall apply

Section R314.6 Power Source relating to Smoke Alarms is amended to create Exception 3 that shall read: "Exception 3. Interconnection and hardwiring of smoke alarms in existing areas shall not be required where the alterations or repairs do not result in the removal of interior walls or ceiling finishesexposing the structure."

Chapter 11, Energy Efficiency is deleted and International Energy Conservation Code as adopted in Section 12-301(9) of this code shall apply.

(3) International Existing Building Code, 2018 edition. To be amended as follows:

Section 1201.4 Flood Hazard Areas The historic building exception shall be deleted.

(4) International Fire Code, 2018 edition with appendices A, B, C, D, E, F, G, H, I, J, K, L, M, & N. To be amended as follows:

Section 503.2.1 Dimensions is amended by adding Exception #1: Existing public roads, streets, or lanes may be continued in use as a fire access road at their existing dimensions, if approved by the CityManager in consultation with the Fire Chief.

Section 507.5.1 and Section 912.2 Where Required are amended by adding as follows: "Fire department connections for each sprinkler or

standpipe system shall be located not more than 100 feet (30m) from the nearest fire hydrant connected to an approved water supply."

(5) International Mechanical Code, 2018 edition. Adopted with no amendments.

(6) International Fuel Gas Code, 2018 edition. To be amended as follows:

Section 404.3 Prohibited locations is amended by adding a sentence as follows: "The gas line must be installed in a ditch separate from other utility lines unless approved by the authority having jurisdiction."

(7) International Plumbing Code, 2018 edition. Adopted with no amendments.

(8) National Electrical Code, NFPA 70, 2017 edition as published by the National Fire Protection Association. To be amended as follows:

Section 110.24, Available Fault Current shall be optional;

Arc Fault Circuit Interrupters (AFCIs) shall be optional for bathrooms, laundry areas, garages, unfinished basements which are portions or areas of the basement not intended as habitable rooms and limited to storage, work or similar area, and for branch circuits dedicated to supplying refrigeration equipment;

Section 210.5 (C) shall be amended by adding: "Means of identification of ungrounded conductors shall be color coded as follows:

(a) 120/208 Volt wiring systems: Phase 1 Black, Phase 2 Red, Phase 3 Blue, Neutral White

(b) 277/480 Volt wiring systems: Phase 1 Brown, Phase 2 Orange, Phase 3 Yellow, Neutral Gray, Ground Wire Green

(c) All boxes and enclosures for emergency systems and fire alarm systems shall be permanently marked. The color red shall be used for fire alarm systems (NEC Article 760.30). The color orange shall be used for emergency systems."

Section 230.70 (A3) is amended by adding a sentence at the end of the section as follows: "Service panels or switch gears shall have an interim service disconnect device such as a main circuit breaker or fused disconnect. When such device is located on the interior of a structure and in excess of 10 feet from an exterior man door, a shunt trip device shall be installed with a Knox key switch at a location specified by the fire official. All conductors installed for operation of the SHUNT TRIP BREAKER for main services or to shut down generators serving emergency power shall be installed in a metallic conductor system. This conduit system shall be continuous from end to end without junction boxes or splices and shall be identified by the same color code as for emergency circuits."

Section 230.71 (A) is amended by adding a sentence at the end of the section as follows: "Meter centers installed for multiple occupancy residential structures with more than six meters shall require a main

breaker or disconnect be installed. Structures with multiple meter centers shall have shunt trip breakers and Knox switches installed to disconnect all services from each location."

Section 334.12 is amended by adding #11: "Cable NM, type NMC NMB and type NMS" as defined in Article 334 of the National Electrical Code shall not be permitted for use in the following applications:

(a) Group R1 Residential Hotels and Motels;
(b) Buildings, other than Residential;
(c) Other building types where prohibited by the National Electrical Code;
(d) All buildings over three stories; and
(e) All buildings located in the fire district as defined by the City Zoning Code. Conduit, raceways and wire-ways shall be metallic for all non-residential buildings unless for special applications.

(9) International Energy Conservation Code. To be applied as follows:

(a) 2018 edition Chapter 4 [RE] Residential Energy Efficiency shall apply to all one and two-family dwellings and townhouses. To be amended as follows:

Section R402.4.1.2 Testing is deleted and replace with Section 402.2.1 Testing Options and Section 402.4.2.2 Visual Inspection Option from 2009 IECC

Section R403.3.3 Duct Testing (Mandatory) and **Section R403.3.4 Duct Leakage (Prescriptive)** are optional

Table 402.1.2 Insulation and Fenestration Requirements by Component and **Table R402.1.4 Equivalent U-Factors** are deleted and replaced with

Table 402.1.1 Insulation and Fenestration Requirements by Component and **Table 402.1.3 Equivalent U-Factors from 2009 IECC**

Section R402.4.4 Rooms Containing Fuel-Burning Appliances is deleted in its entirety.

(b) **2012 edition Chapter 4 [CE]** Commercial Energy Efficiency shall apply to all commercial occupancy classifications not addressed in 12-301(9)(c) below.

(c) **2006 edition of the IECC** shall apply to the following occupancy classifications: Moderate-hazard factory industrial, Group F-1; Low-hazard factory industrial, Group F-2; Moderate-hazard storage, Group S-1; and, Low-hazard storage, Group S-2

(10) International Property Maintenance Code, 2018 edition. Adopted with no amendments.

(11) International Pool and Spa Code, 2018 edition. Adopted with no amendments. (Ord. #3523, Nov. 1997, as amended by Ord. #3663, Feb. 1999, replaced by Ord. #4113-05, July 2005, and Ord. #4295-07, Jan. 2008, amended by Ord. #4300-08, April 2008, replaced by Ord. #4371-10, Feb. 2010, amended by Ord. #4492-13, July 2013, replaced by Ord. #4509-13, Oct. 2013, amended by Ord. #4620-16, Nov. 2016, and replaced by Ord. #4758-20, Jan. 2021 ***Ch13_05-06-21***)

CHAPTER 4

NUMBERING OF BUILDINGS

SECTION

12-401. Intent. It is the intent of this chapter that the respective numbers provided for herein shall be placed on all buildings. (Ord. #3442, March 1997)

12-402. General responsibility. The city's building inspection division shall be responsible for determining the correct numbering of properties located within the corporate limits of the city. (Ord. #3442, March 1997)

12-403. Placement of numbers generally. Property address numbers shall be placed conspicuously above, or at the side of the proper door of each building, or each unit of the building which has an outside entrance, so that the number can be plainly seen from the street line. Numbers shall be a minimum of four inches (4") in height for residential and six inches (6") in height for commercial with the principal strokes of numbers not less than one-half (½") of an inch wide. Numbers shall be a contrasting color to their background. Should the distance from the street line to the door inhibit discernment of numbers placed on the building, then the numbers should be placed upon a gate post, fence, post, sign or other appropriate place easily seen from the street line in addition to numbers placed on the building. In residential subdivisions that have requirements for certain types of mailboxes mounted at the street with address numbers affixed to them, such shall be considered as meeting the intent of this code if approved by the fire official. (Ord. #3442, March 1997, as replaced by Ord. #4295-07, Jan. 2008)

12-404. Approval of remodeling or construction. No final approval for the remodeling or construction of buildings shall be granted by the city building inspection division until conspicuous numbers are in place as specified in § 12-403. (Ord. #3442, March 1997)

CHAPTER 5

PROPERTY MAINTENANCE BOARD OF APPEALS

SECTION

12-501. Creation and appointment. The property maintenance board of appeals is hereby established and shall be filled by members of the board of dwelling standards. (as added by Ord. #4521-13, Feb. 2014)

12-502. Procedure. Meetings of the board shall be held on the fourth Thursday of each month at 7:00 P.M. as needed. The procedures for hearings shall be the same as used for board of dwelling standards hearings. (as added by Ord. #4521-13, Feb. 2014)

12-503. Powers. The property maintenance board of appeals shall hear and decide appeals on interpretation of the International Property Maintenance Code, the applicability of a provision of the International Property Maintenance Code, and/or the satisfaction of the requirements of the International Property Maintenance Code, by other means. For purposes of this chapter, International Property Maintenance Code, shall mean the currently adopted International Property Maintenance Code, or any subsequent property maintenance code hereinafter adopted by the City of Johnson City. (as added by Ord. #4521-13, Feb. 2014)

TITLE 13

PROPERTY MAINTENANCE REGULATIONS

CHAPTER

CHAPTER 1

MISCELLANEOUS

SECTION

13-101. Contagious or infectious diseases. When any contagious or infectious disease is known or suspected to exist in any household of the city, it shall be the duty of the head of same, and also of the attending physician, if any, to immediately notify the city manager thereof, who shall in turn notify the city physician, and if he has any doubt in the matter, to investigate and report back to him without delay. It shall then be the duty of the city manager and city physician to take immediate steps looking to the quarantining of such house and in connection therewith notify the county public health director, for such assistance as may be required, and under whose direction the matter shall be taken. The city manager shall also notify the superintendent of schools that no child from any house where such disease exists shall be permitted to attend the public schools, until furnished with a clean health certificate from the county public health director. (1985 Code, § 12-1)

13-102. Overgrown and dirty lots. (1) Prohibition. Pursuant to the authority granted to municipalities under Tennessee Code Annotated, § 6-54-113, it shall be unlawful for any owner of record of real property to create, maintain, or permit to be maintained on such property the growth of trees, vines, grass, underbrush and/or the accumulations of debris, trash, litter, or garbage or any combination of the preceding elements so as to endanger the

health, safety, or welfare of other citizens or to encourage the infestation of rats and other harmful animals.

(2) Designation of public officer or department. The board of commissioners designates the director of development services and his/her subordinates in the department of development services to enforce the provisions of this section.

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

(a) A brief statement that the owner is in violation of § 13-102 of the Code of the City of Johnson City, Tennessee, 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 person giving the notice;

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

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

(4) Clean-up at property owner's expense. If the property owner of record fails or refuses to remedy the condition within ten (10) days after receiving the notice (twenty (20) days if the owner is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), excluding Saturdays, Sundays, and legal holidays, the director of development services 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 Washington, Carter, or Sullivan

County, as the case may be, the costs shall be a lien on the property in favor of the municipality, second only to liens of the state, county, and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be placed on the tax rolls of the municipality as a lien and shall be added to property tax bills to be collected at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes.

(5) Clean-up of owner-occupied property. When the owner of an owner-occupied residential property fails or refuses to remedy the condition within ten (10) days after receiving the notice (excluding Saturdays, Sundays, and legal holidays), the director of development services shall immediately cause the condition to be remedied or removed at a cost in accordance with reasonable standards in the community, with these costs to be assessed against the owner of the property. The provisions of subsection (4) shall apply to the collection of costs against the owner of an owner-occupied residential property except that the municipality must wait until cumulative charges for remediation equal or exceed five hundred dollars ($500.00) before filing the notice with the register of deeds and the charges becoming a lien on the property. After this threshold has been met and the lien attaches, charges for costs for which the lien attached are collectible as provided in subsection (4) for these charges.

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

(7) Judicial review. Any person aggrieved by an order or act of the board of commissioners under subsection (6) above may seek judicial review of, the order or act. The time period established in subsection (3) above shall be stayed during the pendency of judicial review.

(8) Supplemental nature of this section. The provisions of this section are in addition and supplemental to, and not in substitution for, any other provision in the municipal charter, this municipal code of ordinances or other applicable law which permits the city to proceed against an owner, tenant or occupant of property who has created, maintained, or permitted to be maintained on such property the growth of trees, vines, grass, weeds, underbrush and/or the accumulation of the debris, trash, litter, or garbage or any combination of the preceding elements, under its charter, any other provisions of this municipal code of ordinances or any other applicable law. (Ord. #3024, Oct. 1991, as replaced by Ord. #4282-07, Jan. 2008, and amended by Ord. #4500-13, Aug. 2013)

13-103. <u>Control of excessive vegetation</u>. (1)(a) Except as otherwise described in this section, it is unlawful for any person or other legal entity owning, leasing, occupying or having control or management of any developed land or premises within the city limits to allow grass, vines, underbrush, or other vegetation (excluding cultivated flowers and gardens, ornamental grasses, cultivated trees, or cultivated shrubs) to exceed an overall height of twelve inches (12") above the ground, including that area up to and along the traveled portion of the street or public right-of-way adjacent to the respective parcel of land. Properties found to be in said condition will henceforth be declared a public nuisance, the public health, safety, and welfare requiring it. Each day's continuance of the condition above prescribed after written notice to the aforementioned person or legal entity from the city manager or his designee to abate the same shall constitute a separate offense.

(b) Except as otherwise described in this section, it is unlawful for any person or other legal entity owning, leasing, occupying or having control or management of any undeveloped land or premises within the city limits to allow grass, vines, underbrush, or other vegetation (excluding cultivated flowers and gardens, ornamental grasses, cultivated trees, or cultivated shrubs) to exceed a height of twenty-four inches (24") above the ground. Properties found to be in violation of this section will henceforth be declared a public nuisance, the public health, safety, and welfare requiring it. Each day's continuance of the condition above prescribed after written notice to the aforementioned person or legal entity from the city manager or his designee to abate the same shall constitute a separate offense.

(c) The following shall be exempt from the provisions of this section: undeveloped wooded areas where tree growth is in excess of ten feet (10') in height; lands specifically zoned or otherwise legally and actively used for agricultural purposes, including the cutting of hay, gardening, or growing of field crops; stream beds or banks, as well as all slopes covered with vegetation per the recommendation of the State of Tennessee for the purpose of erosion control; heavily wooded parcels of land where motorized equipment cannot safely maneuver; land that, because of its steepness and/or a prevalence of rocky outcroppings or wetlands, cannot be safely mowed using motorized equipment.

(2) As used in this section, the following phrases shall have the following meanings:

(a) "Developed land" means any privately owned parcel or portion thereof that contains (or has contained in the past) any building, structure, dwelling, or house used either wholly or in part for human occupation or habitation, either on a temporary or continuous basis, that is currently inhabited, vacant, or that has been previously removed, or that has located upon it (or has had located upon it in the past) any

parking area or driveway (whether paved or unpaved), or any other type of improvement. Subdivisions where streets have been constructed and a minimum of fifty percent (50%) of the subdivision lots have homes constructed or under construction shall also be classified as developed land.

(b) "Undeveloped land" means any privately owned parcel or portion thereof which does not contain, nor has in the past ever had located upon it any building, structure, dwelling or house, or parking area or driveway (whether paved or unpaved), or any other type of improvement. Subdivisions where streets have been constructed and less than fifty percent (50%) of the subdivision lots have homes constructed or under construction shall also be classified as undeveloped land.

(3) Pursuant to the general penalty as found in title 1, § 1-104 of the Code of the City of Johnson City, Tennessee, a violation of § 13-103 shall be punished by a fine of not more than fifty dollars ($50.00) for each separate violation. Each day any violation of this section shall continue shall constitute a separate offense. (Ord. #3023, Oct. 1991, as replaced by Ord. #4370-09, Feb. 2010, and amended by Ord. #4520-13, Feb. 2014)

13-104. <u>Blighted areas and dilapidation defined</u>. (1) Blighted areas are areas (including slum areas) with buildings or improvements which, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use, or obsolete layout, or any combination of these or other factors, are detrimental to the safety, health, morals, or welfare of the community.

(2) As used in this title, dilapidation means: extreme deterioration and decay due to lack of repairs or the care of the area. (Ord. #3343, Dec. 1995)

CHAPTER 2

HOUSING--IN GENERAL

SECTION

13-201. Definitions. The following words or expressions, whenever used in chapters 2-5 of this title, shall have for the purpose of those chapters the following respective meanings, unless a different meaning clearly appears from the context. Whenever the words "dwelling," "dwelling unit," "rooming house," "rooming unit," "premises" and "structure" are used in chapters 2-5 of this title, they shall be construed as though they were followed by the words "or any part thereof."

(1) "Abandoned motor vehicle" is a motor vehicle that is in a state of disrepair and incapable of being moved under its own power.

(2) "Addition" is an extension or increase in floor area or height of a building or structure.

(3) "Alter" or "alteration" means any change or modification in construction or occupancy.

(4) "Apartment" means a dwelling unit as defined in this section.

(5) "Apartment house" is any building or portion thereof used as a multiple dwelling for the purpose of providing three (3) or more separate dwelling units which may share means of egress and other essential facilities.

(6) "Approved" means approved by the public authority or other authority having jurisdiction.

(7) "Basement" means that portion of a building between floor and ceiling, which is partly below and partly above grade, but so located that the vertical distance from grade to the floor below is less than the vertical distance from grade to ceiling, provided however, that the distance from grade to ceiling shall be at least four (4) feet six (6) inches.

(8) "Board of dwelling standards" shall mean the public officer or officers authorized by chapters 2-5 of this title to exercise the powers prescribed hereunder and by Tennessee Code Annotated, title 13, chapter 21, as it now reads or as it may hereafter be amended.

(9) "Building" means any structure, including modular and mobile homes, having a roof supported by columns or by walls and intended for the

shelter or enclosure of persons, animals, chattels or property of any kind. The term "building" is construed as if followed by the words "or part thereof." (For the purpose of chapters 2-5 of this title, each portion of a building separated from other portions by a fire wall shall be considered as a separate building.)

(10) "Cellar" means that portion of a building, the ceiling of which is entirely below grade or less than four (4) feet six (6) inches above grade.

(11) "Dormitory" is a space in a unit where group sleeping accommodations are provided with or without meals for persons not members of the same family group, in one room, or in a series of closely associated rooms under joint occupancy and single management, as in college dormitories, fraternity houses, military barracks and ski lodges.

(12) "Dwelling" shall mean 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 hereto or usually enjoyed therewith.

(13) "Dwelling unit" is a single unit providing complete, independent living facilities for one (1) or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

(14) "Extermination" means the control and extermination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating or trapping; or by any other recognized and legal pest elimination methods.

(15) "Family" means one (1) or more persons occupying a single dwelling unit, whether related by blood, marriage or adoption, and having common housekeeping facilities.

(16) "Floor area" means the total area of all habitable space in a building or structure.

(17) "Garbage" means the animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

(18) "Habitable room" is a space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space and similar areas are not considered habitable space.

(19) "Health officer" shall mean the person designated by the city to perform the functions of a health officer under this code and other laws or ordinances.

(20) "Hotel" is any building containing six (6) or more guest rooms intended or designed to be used, or which are used, rented or hired out to be occupied or which are occupied for sleeping purposes by guests.

(21) "Infestation" means the presence, within or around a dwelling, of any insects, rodents or other pests.

(22) "Multiple dwelling" means any building, or portion thereof designed, constructed or reconstructed to be used as more than two (2) dwelling units, each independent of the other, including cooking facilities, and shall include flats and apartments.

(23) "Nuisances" include:

(a) Any public nuisance known as common law or in equity jurisprudence;

(b) Any attractive nuisance which may prove detrimental to children whether in building, on the premises of a building or upon an unoccupied lot. This includes unprotected (unscreened or unfenced) swimming pools; any abandoned refrigerators and motor vehicles; or any structurally unsound fences or structures; or any lumber, trash, fences, debris or vegetation which may prove a hazard for inquisitive minors;

(c) Whatever is dangerous to human life or is detrimental to health, as determined by the health officer;

(d) Overcrowding a room with occupants;

(e) Insufficient ventilation or illumination;

(f) Inadequate or unsanitary sewage or plumbing facilities;

(g) Uncleanliness, as determined by the health officer; and

(h) Whatever renders air, food or drink unwholesome or detrimental to the health of human beings, as determined by the health officer.

(24) "Openable area" or "window" shall mean that part of a window or door which is available for unobstructed ventilation and which opens directly to the outdoors.

(25) "Owner" means the holder of any freehold estate, every mortgagee or trustee of record and every beneficiary of a trust deed.

(26) "Parties in interest" means all individuals, associations, partnerships, corporations and others who have interests of record in a dwelling and any who are in possession or occupancy thereof, but shall not include the United States of America on account of a tax lien.

(27) "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.

(28) "Plumbing" means the practice, material and fixtures used in the installation, maintenance, extension and alteration of all piping, fixtures, appliances and appurtenances in connection with any of the following: sanitary drainage or storm drainage facilities, the venting system and the public or private water-supply systems, within or adjacent to any building, structure or conveyance; also the practice and materials used in the installation, maintenance, extension or alteration of storm-water, liquid-waste or sewage,

and water-supply systems of any premises to their connection with any point of public disposal or other acceptable terminal.

(29) "Premises" means a lot, plot or parcel of land, including the buildings or structures thereon.

(30) "Public areas" means an unoccupied open space adjoining a building and on the same property, that is permanently maintained accessible to the fire department and free of all incumbrances that might interfere with its use by the fire department.

(31) "Public authority" shall mean the chief building official of the city or his designee.

(32) "Public board" shall mean the board of dwelling standards.

(33) "Repair" means the replacement of existing work with the same kind of material used in the existing work, not including additional work that would change the structural safety of the building, or that would affect or change required exit facilities, a vital element of an elevator, plumbing, gas piping, wiring or heating installations or that would be in violation of a provision of law or ordinance. The term "repair" or "repairs" shall not apply to any change of construction.

(34) "Required" means required by some provision of chapters 2-5 of this title..

(35) "Residential buildings" or "residential occupancy" means buildings in which families or households live or in which sleeping accommodations are provided, and all dormitories. Such buildings include, among others, the following: dwellings, multiple dwellings and rooming houses.

(36) "Rooming house" means any dwelling or that part of any dwelling containing one (1) or more rooming units, in which space is let by the owner or operator to not more than five (5) persons who are not husband or wife, son or daughter, mother or father, or sister or brother of the owner or operaotor.

(37) "Rooming unit" means any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

(38) "Rubbish" means combustible and noncombustible waste materials, except garbage; and the term shall include the residue from the burning of wood, coal, coke or other combustible material, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metal, mineral matter, glass crockery and dust.

(39) "Stairway" means one (1) or more flights of stairs and the necessary landings and platforms connecting them, to form a continuous and uninterrupted passage from one (1) story to another in a building or structure.

(40) "Story" is that portion of a building included between the upper surface of a floor and upper surface of the floor or roof next above.

(41) "Structure" shall mean any dwelling or place of public accommodation.

(42) "Supplied" means paid for, furnished or provided by or under control of, the owner or operator.

(43) "Temporary housing" means any tent, trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure or to any utilities system on the same premises for more than thirty (30) consecutive days.

(44) "Value" shall mean that value stated as the "appraised" value on the tax assessment rolls of the City of Johnson City.

(45) "Ventilation" means the process of supplying and removing air by natural or mechanical means to or from any space.

(46) "Yard" means an open unoccupied space on the same lot with a building extending along the entire length of a street, or rear, or interior lot line. (1985 Code, § 13-1)

13-202. Construction. Should any question arise in the construction of chapters 2-5 of this title, it shall be determined in accordance with the state law authorizing the enactment of chapters 2-5. (1985 Code, § 13-2)

13-203. Findings. The board of commissioners finds that there exist 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 structures unsafe or unsanitary, or dangerous or detrimental to the health, safety or morals, or otherwise inimical to the welfare of the residents of the city. (1985 Code, § 13-3)

13-204. Provisions remedial. Chapters 2-5 of this title are hereby declared to be remedial, and shall be construed to secure the beneficial interests and purposes thereof--which are public safety, health and general welfare--through structural strength, stability, sanitation, adequate light and ventilation and safety to life and property from fire and other hazards incident to the construction, alteration, repair, removal, demolition, use and occupancy of residential buildings. (1985 Code, § 13-4)

13-205. Scope. (1) The provisions of chapters 2-5 of this title shall apply to all buildings or portions thereof used, or designed or intended to be used, for human occupation or use, regardless of when such building may have been constructed.

(2) Chapters 2-5 of this title establish minimum standards for occupancy, and does not replace or modify standards otherwise established for

construction, replacement or repair of buildings except such as are contrary to the provisions of chapters 2-5.

(3) Buildings or structures moved into or within the jurisdiction shall comply with the requirements in the city's building code for new buildings. (1985 Code, § 13-5)

13-206. Impairment of other powers. Nothing in chapters 2-5 of this title shall be construed to abrogate or impair the powers of any department of this city to enforce any provisions of its charter or its ordinances or regulations, nor to prevent or punish violations thereof. (1985 Code, § 13-6)

CHAPTER 3

HOUSING--PROCEDURES

SECTION

13-301. Creation of public board. A board of dwelling standards shall be designated and appointed by the board of commissioners to exercise the powers prescribed by this chapter. The board of dwelling standards shall consist of five (5) members who shall be qualified voters of the city and who shall serve at the pleasure of the board of commissioners. A majority of all its members shall constitute a quorum, which quorum shall be authorized to exercise the powers conferred on said public board by this chapter. (1985 Code, § 13-23)

13-302. Petition procedure. Whenever a petition is filed in writing with the board of dwelling standards by the public authority or by at least five (5) residents of the city charging that any structure is unfit for human occupation or use, or whenever it appears to the board of dwelling standards or any of its members on its or his own motion that any structure is unfit for human occupation or use, the public board shall, if its preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner 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 board of dwelling standards, or its designated agent, at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the serving of the complaint; that the owner and parties in interest shall be given the right to file

an answer to the complaint and to appear in person , or otherwise, and give testimony at the place and time fixed in the complaint, and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public board. (1985 Code, § 13-24)

13-303. Conditions of unsuitability for human occupation or use. The public board may determine that a structure is unfit for human occupation or use if it finds that conditions exist in structures which are dangerous or injurious to the health, safety or morals of the occupants of neighboring structures or other residents of the city; such conditions include defects therein increasing the hazards of fire, accident or other calamities; lack of adequate ventilation, light or sanitary facilities; dilapidation; disrepair; structural defects; and uncleanliness. The public board also shall be guided by the minimum standards for base equipment and facilities contained in chapter 4 herein, and by titles 7 and 12 of this code. (1985 Code, § 13-25)

13-304. Powers of public board. The public board shall have and may exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of chapters 2-5 of this title, including the following powers:

(1) To investigate conditions 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 examinations, allowed by law, provided that such entries shall be made in such a manner as to cause the least possible inconvenience to the persons in possession; and

(4) To delegate any of its functions and powers under chapters 2-5 of this title to such officers and agents as it may designate. (1985 Code, § 13-26)

13-305. Findings of fact. If, after such notice and hearing as described hereinabove, the public board determines that the structure in consideration is unfit for human occupation or use, the board shall state in writing findings of fact in support of its determination and shall issue and cause to be served upon the owner 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 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 as a place of human occupation or use; or

(2) If the repair, alteration, or improvement of the structure cannot be made at a reasonable cost in relation to the value of the structure, requiring the

owner, within the time specified in the order, to remove or demolish such structure. (1985 Code, § 13-27)

13-306. Repair of conforming structures. (1) The provisions of chapters 2-5 of this title shall apply to any structure conforming to the provisions of the zoning code irrespective of when said structure was constructed, altered, or repaired.

(2) If, within any period of twelve (12) months, alterations or repairs costing in excess of fifty (50) percent of the replacement cost of the structure prior to any alterations are made to any existing structure, such structure shall be made to conform to the requirements of the building code of the city for new structures.

(3) If an existing structure is damaged by fire or otherwise in excess of fifty (50) per cent of its replacement cost at time of destruction, it shall be made to conform to the requirements of the building code of the city for new structures.

(4) If the cost of such alterations or repairs within any twelve-month period or the amount of such damage as referred to in subsection (3) is more than fifty (50) per cent of the replacement cost of the structure, the portions to be altered or repaired shall be made to conform to the requirements of the building code of the city for new structures to the extent that the public board may determine.

(5) Repairs and alterations not covered by the preceding subsections, and which will not extend or increase a hazard, may be made with the same kind of materials as those of which the structure is constructed, to the extent permitted by the public board.

(6) For the purpose of this section, the "value" of a structure shall be as determined by the public board. (1985 Code, § 13-28)

13-307. Repair or removal--nonconforming structures. Structures not conforming to the zoning code of the city may be repaired under the terms of and to the extent permitted by provisions of that code; otherwise said structures must be demolished and removed. (1985 Code, § 13-29)

13-308. Repair or removal--structures containing nonconforming residential uses. Structures occupied by nonconforming residential uses may be repaired for such uses under the terms of and only to the extent permitted by the provisions of the zoning code of the city; otherwise, the repair of the structure must be conducted to accommodate a use conforming to the zoning code, or else the structure shall be demolished and removed. (1985 Code, § 13-30)

13-309. Letter of compliance. A letter indicating compliance with the provisions of chapters 2-5 of this title may be issued by the public board. (1985 Code, § 13-31)

13-310. Failure to comply--structure closed. If the owner or parties in interest fail to comply with an order to repair, alter, or improve, or an order to vacate and close the structure, the public board may cause such structure to be repaired, altered, or improved, or to be vacated and closed, and may cause to be posted on the main entrance of any structure so closed, a placard with the following words: "This building is unfit for human occupation or use; the use or occupation of this building for human occupation or use is prohibited and unlawful." The public board shall continue the closure of the structure until the repairs, alterations, or improvements are made. (1985 Code, § 13-32)

13-311. Failure to comply--board may effect remedy. If the owner or parties in interest fail to comply with an order to repair, remove, or demolish the structure, the public board may cause such structure to be repaired, removed, or demolished. (1985 Code, § 13-33)

13-312. Remedy by board--lien. The amount of the cost of such repairs, alterations, or improvements, or vacating and closing, or removal or demolition by the city shall be a lien against the real property upon which such cost was incurred. If the structure is removed or demolished by the city, the city 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, shall be secured in such a 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; provided, however, that the power of the city to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise, shall not be impaired or limited by this section. (1985 Code, § 13-34)

13-313. Remedy by board--inspections. The public authority shall make or cause to be made inspections to determine the conditions of structures and premises in the interest of safeguarding the health, safety, and welfare of the occupants of said structures and of the general public. For the purpose of making such inspections, the public board and the public authority, or their agents or designees, are authorized to enter, examine, and survey at all reasonable times all structures and premises. The owner or occupant or person in charge of every structure shall give the public board or public authority, or their agents or designees, free access to such structures or premises at all

reasonable times for the purpose of such inspection, examination, or survey. (1985 Code, § 13-35)

13-314. Hardships; appeals. (1) Where the literal application of the requirements of chapters 2-5 of this title may cause undue hardship on an owner or tenant or when it is claimed that the true intent and meaning of chapters 2-5 or any of the regulations therein have been misconstrued or wrongly interpreted, the owner of such building or structure, or his duly authorized agent, may appeal the allegations contained within the petition in the answer to the complaints at the time of the public hearing before the public board.

(2) All appeals from the decisions of the public board shall be to the chancery court as prescribed by Tennessee Code Annotated, § 13-21-106. (1985 Code, § 13-36)

13-315. Service of complaints or orders. Complaints or orders issued by the public board under chapters 2-5 of this title shall be served upon persons either personally or by registered or certified 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 board or any of its members or the public authority shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper printed and published in the city, or in the absence of such newspaper, in one printed and published in Washington or Carter County and being circulated in the city. A copy of such complaint or order shall be posted in a conspicuous place on premises affected by the complaint or order. A copy of such complaint or order shall also be filed for record in the register's office of the county in which the structure is located, and such filing of the complaint or order shall have the same force and effect as other lis pendens notices as provided by law. (1985 Code, § 13-37)

CHAPTER 4

HOUSING--MINIMUM STANDARDS FOR BASE EQUIPMENT AND FACILITIES

SECTION

13-401. General. No person shall occupy as owner-occupant or let or sublet to another for occupancy any dwelling or dwelling unit designed or intended to be used for the purpose of living, sleeping, cooking or eating therein, nor shall any vacant dwelling building be permitted to exist which does not comply with the requirements of this chapters 4 and 5 of this title. (1985 Code, § 13-53)

13-402. Sanitary facilities--required. Every dwelling unit shall contain no less than a kitchen sink, lavatory, tub or shower and a water closet all in good working condition and properly connected to an approved water and sewer system. Every plumbing fixture and water and waste pipe shall be properly installed and maintained in good sanitary working condition, free from defects, leaks and obstructions. (1985 Code, § 13-54)

13-403. Sanitary facilities--location. (1) All required plumbing fixtures shall be located within the dwelling unit and be accessible to the occupants of same. The water closet, tub or shower and lavatory shall be located in a room affording privacy to the user and such room shall have a minimum floor space of thirty (30) square feet, with no dimension less than four (4) feet.

(2) Bathrooms shall be accessible from habitable rooms, hallways, corridors or other protected or enclosed areas, not including kitchens or other food preparation areas. (1985 Code, § 13-55)

13-404. Water--generally. Every dwelling unit shall have connected to the kitchen sink, lavatory and tub or shower an adequate supply of both cold water and hot water. All water shall be supplied through an approved distribution system connected to a potable water supply. (1985 Code, § 13-56)

13-405. Water--heating facilities. Every dwelling shall have water heating facilities which are properly installed and maintained in a safe and good working condition and are capable of heating water to such a temperature as to permit an adequate amount of water to be drawn at every required kitchen sink, lavatory basin, bathtub or shower at a temperature of not less than one hundred twenty (120) degrees Fahrenheit. The minimum storage capacity of the water heater shall be thirty (30) gallons. Such water heating facilities shall be capable

of meeting the requirements of this section when the dwelling or dwelling unit heating facilities required under the provisions of chapters 2-5 of this title are not in operation. (1985 Code, § 13-57)

13-406. Cooking; heating. (1) Every dwelling unit shall have heating facilities which are properly installed, are maintained in safe and good working conditions and are capable of safely and adequately heating all habitable rooms and bathrooms in every dwelling unit located therein to a temperature of at least seventy (70) degrees Fahrenheit at a distance three (3) feet above floor level, under ordinary minimum winter conditions.

(2) Unvented fuel burning heaters shall be prohibited.

(3) All cooking and heating equipment and facilities shall be installed in accordance with the building, mechanical, gas or electrical code and shall be maintained in a safe and good working condition. Portable cooking equipment employing flame is prohibited. (1985 Code, § 13-58)

13-407. Garbage disposal facilities. Every dwelling unit shall have adequate garbage disposal facilities or garbage storage containers, type and location of which facilities or containers are approved by the city commission. (1985 Code, § 13-59)

13-408. Fire protection. A person shall not occupy as owner-occupant or shall let to another for occupancy, any building or structure which does not comply with the applicable provisions of the fire prevention code of the city. (1985 Code, § 13-60)

13-409. Light and ventilation-size. Every habitable room shall have at least one (1) window or skylight facing directly to the outdoors. The minimum total window area, measured between stops, for every habitable room shall be eight (8) per cent of the floor area of such room. Whenever walls or other portions of structures face a window of any such room and such light-obstruction structures are located less than three (3) feet from the window and extend to a level above that of the ceiling of the room, such a window shall not be included as contributing to the required minimum total window area. Whenever the only window in a room is a skylight-type window in the top of such room, the total window area of such skylight shall equal at least fifteen (15) percent of the total floor area of such room. (1985 Code, § 13-61)

13-410. Light and ventilation--habitable rooms. (1) Every habitable room shall have at least one (1) window or skylight which can be easily opened, or such other device as will adequately ventilate the room. The total of openable window area in every habitable room shall be equal to at least forty-five (45) per

cent of the minimum window area size or minimum skylight-type window size, as required, or shall have other approved, equivalent ventilation.

(2) Year-round mechanically ventilating conditioned air systems may be substituted for windows, as required herein, in rooms other than rooms used for sleeping purposes. Window type air-conditioning units are not included in this exception. (1985 Code, § 13-62)

13-411. Light and ventilation--bathroom. Every bathroom shall comply with the light and ventilation requirements for habitable rooms except that no window or skylight shall be required in adequately ventilated bathrooms equipped with an approved ventilating system. (1985 Code, § 13-63)

13-412. Electricity--lights and outlets required. Where there is electric service available to the building structure, every habitable room or space shall contain at least two (2) separate and remote convenience outlets, and bedrooms shall have, in addition, at least one (1) wall switch controlled ceiling or wall type light fixture. In kitchens, three (3) separate and remote convenience outlets shall be provided, and a wall or ceiling type light fixture controlled by a wall switch shall be required. Every hall, water closet compartment, bathroom, laundry room or furnace room shall contain at least one (1) electric fixture. In bathrooms the electric light fixture shall be controlled by a wall switch. In addition to the electric light fixture in every bathroom and laundry room, there shall be provided at least one (1) convenience outlet. Every such outlet and fixture shall be properly installed, shall be maintained in good and safe working condition and shall be connected to the source of electric power in a safe manner. (1985 Code, § 13-64)

13-413. Electricity--public halls; stairways. Every common hall and inside stairway in every building, other than one-family dwellings, shall be adequately lighted at all times with an illumination of at least one (1) foot candle intensity at the floor in the darkest portion of the normally traveled stairs and passageways. (1985 Code, § 13-65)

13-414. Electricity--minimum requirements. Every electrical outlet and fixture required by this chapter shall be installed, maintained and connected to a source of electric power in accordance with the provisions of the city's electrical code. (1985 Code, § 13-66)

13-415. Foundation. The building foundation system shall be maintained in a safe manner and capable of supporting the load which normal use may cause to be place thereon. (1985 Code, § 13-67)

13-416. Exterior walls. Every exterior wall shall be free of holes, breaks, loose or rotting boards or timbers and any other conditions which might admit rain or dampness to the interior portions of the walls or to the occupied spaces of the building. All siding material shall be kept in repair. (1985 Code, § 13-68)

13-417. Roofs. Roofs shall be structurally sound and maintained in a safe manner and have no defects which might admit rain or cause dampness in the walls or interior portion of the building. (1985 Code, § 13-69)

13-418. Means of egress. Every dwelling unit shall have safe, unobstructed means of egress with a minimum ceiling height of seven (7) feet leading to a safe and open space at ground level. Stairs shall have a minimum head room of six (6) feet eight (8) inches. (1985 Code, § 13-70)

13-419. Stairs; porches. Every inside and outside stair, porch and any appurtenance thereto shall be safe to use; shall be capable of supporting the load that normal use may cause to be placed thereon; and shall be kept in sound condition and good repair. (1985 Code, § 13-71)

13-420. Protective railings. Protective railings shall be required on any unenclosed structure over thirty (30) inches from the ground level or on any steps containing four (4) risers or more. (1985 Code, § 13-72)

13-421. Windows; doors. Every window, exterior door and basement or cellar door and hatchway shall be substantially weathertight, watertight and rodent proof and shall be kept in sound working condition and good repair. (1985 Code, § 13-73)

13-422. Windows-glazed. Every window sash shall be fully supplied with glass window panes or an approved substitute which is without open cracks or holes. (1985 Code, § 13-74)

13-423. Windows-sash. Window sash shall be properly fitted and weathertight within the window frame. (1985 Code, § 13-75)

13-424. Windows--openable. Every window required for light and ventilation for habitable rooms shall be capable of being easily opened and secured in position by window hardware. (1985 Code, § 13-76)

13-425. Hardware generally. Every exterior door shall be provided with proper hardware and maintained in good condition. (1985 Code, § 13-77)

13-426. Door frames. Every exterior door shall fit reasonably well within its frame so as to substantially exclude rain and wind from entering the dwelling building. (1985 Code, § 13-78)

13-427. Screens. Every door opening directly from a dwelling unit to outdoor space shall have screen doors with a self-closing device; and every window or other device opening to outdoor space, used or intended to be used for ventilation, shall likewise have screens. (1985 Code, § 13-79)

13-428. Protective treatment. All exterior wood surface, other than decay resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. (1985 Code, § 13-80)

13-429. Accessory structures. Garages, storage buildings and other accessory structures shall be maintained and kept in good repair and sound structural condition. (1985 Code, § 13-81)

13-430. Interior floor, walls, ceilings. (1) Every floor, interior wall and ceiling shall be substantially rodent proof; shall be kept in sound condition and good repair; and shall be safe to use and capable of supporting the load which normal use may cause to be place thereon.

(2) Every toilet, bathroom and kitchen floor surface shall be constructed and maintained so as to be substantially impervious to water and so as to permit such floor to be easily kept in a clean and sanitary condition. (1985 Code, § 13-82)

13-431. Structural supports. Every structural element of the dwelling shall be maintained structurally sound and show no evidence of deterioration which would render it incapable of carrying loads which normal use may cause to be placed thereon. (1985 Code, § 13-83)

13-432. Protective railings for interior stairs. Interior stairs and stairwells more than four (4) risers high shall have handrails located in accordance with the requirements of the building code. Handrails or protective railings shall be capable of bearing normally imposed loads and be maintained in good condition. (1985 Code, § 13-84)

13-433. Space--dwelling unit. Every dwelling unit shall contain at least one hundred fifty (150) square feet of floor space for the first occupant thereof and at least one hundred (100) additional square feet of floor area per additional occupant. The floor area shall be calculated on the basis of the total area of all habitable rooms. (1985 Code, § 13-85)

13-434. Space--sleeping rooms. In every dwelling unit of two (2) or more rooms, every room occupied for sleeping purposes by one (1) occupant shall contain at least seventy (70) square feet of floor space, and every room occupied for sleeping purposes by more than one (1) occupant shall contain at least fifty (50) square feet of floor space for each occupant thereof. (1985 Code, § 13-86)

13-435. Ceiling height. (1) Habitable (space) rooms other than kitchens, storage rooms and laundry rooms shall have a ceiling height of not less than seven (7) feet. Hallways, corridors, bathrooms, water closet rooms and kitchens shall have a ceiling height of not less than seven (7) feet measured to the lowest projection from the ceiling.

(2) If any room in a building has a sloping ceiling, the prescribed ceiling height for the room is required in only one-half the area thereof. No portion of the room measuring less than five (5) feet from the finished floor to the finished ceiling shall be included in any computation of the minimum area thereof. (1985 Code, § 13-87)

13-436. Occupancy of dwelling unit below grade. No basement or cellar space shall be used as a habitable room or dwelling unit unless:

(1) The floor and walls are impervious to leakage of underground and surface runoff water and are insulated against dampness;

(2) The total of window area in each room is equal to at least the minimum window area size as required in § 13-409;

(3) Such required minimum window area is located entirely above the grade of the ground adjoining such window area; and

(4) The total of openable window area in each room is equal to at least the minimum as required under § 13-410 of this chapter except where there is supplied some other device affording adequate ventilation. (1985 Code, § 13-88)

13-437. Sanitation. Every owner of a multiple dwelling shall be responsible for maintaining in a clean and sanitary condition the shared or common areas of the dwelling and premises thereof. (1985 Code, § 13-89)

13-438. Cleanliness. Every tenant of a dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit and premises thereof which he occupies or which is provided for his particular use. (1985 Code, § 13-90)

13-439. Refuse disposal. Every tenant of a dwelling or dwelling unit shall dispose of all his garbage and any other organic waste which might provide food for rodents and all rubbish in a clean and sanitary manner by placing it in

the garbage disposal facilities or garbage or rubbish storage containers.(1985 Code, § 13-91)

13-440. Care of premises. It shall be unlawful for the owner or occupant of a residential building, structure or property to utilize the premises of such residential property for the open storage of any abandoned motor vehicle, ice box, refrigerator, stove, glass, building material, building rubbish or similar items. It shall be the duty and responsibility of every such owner or occupant to keep the premises of such residential property clean and to remove from the premises all such abandoned items as listed above, including but not limited to weeds, dead trees, trash, garbage, etc., upon notice from the public authority. (1985 Code, § 13-92)

13-441. [Deleted]. (1985 Code, § 13-93, as deleted by Ord. #4519-13, Feb. 2014)

13-442. Use and operation of supplied plumbing fixtures. Every tenant of a dwelling unit shall keep all plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation thereof. (1985 Code, § 13-94)

CHAPTER 5

HOUSING- ROOMING HOUSES

SECTION

13-501. General. No person shall operate a rooming house, or shall occupy or let another for occupancy any rooming unit in any rooming house, except in compliance with the provisions of every section of chapters 2-5 of this title except as these may be superseded by the provisions of this chapter pertaining to rooming houses. (1985 Code, § 13-106)

13-502. License required. No person shall operate a rooming house unless he holds a valid rooming house license. (1985 Code, § 13-107)

13-503. Water closet; lavatory; bath facilities. (1) At least one (1) flush water closet, lavatory basin and bathtub or shower, properly connected to a water and sewer system and in good working condition, shall be supplied for each four (4) rooms within a rooming house wherever said facilities are shared.

(2) All such facilities shall be located on the floor they serve within the dwelling so as to be reasonably accessible from a common hall or passageway to all persons sharing such facilities. (1985 Code, § 13-108)

13-504. Water heater. Every lavatory basin and bathtub or shower shall be supplied with hot water at all times. (1985 Code, § 13-109)

13-505. Floor area for sleeping purposes. Every room occupied for sleeping purposes by one (1) person shall contain at least seventy (70) square feet of floor space and every room occupied for sleeping purposes by more than one (1) person shall contain at least fifty (50) square feet of floor space for each occupant thereof. (1985 Code, § 13-110)

13-506. Exits. Every rooming unit shall have safe, unobstructed means of egress leading to safe and open space at ground level, as required by the building code of the city. (1985 Code, § 13-111)

13-507. Sanitation. The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors and ceilings, and for maintenance of a sanitary condition in every other part of the rooming house; and he shall be responsible for the sanitary maintenance of the entire premises where the entire structure or building is leased or occupied by the operator. (1985 Code, § 13-112)

CHAPTER 6

TREE ORDINANCE

SECTION

13-601. Title. This ordinance shall be known and may be cited as the Johnson City Tree Ordinance. (Ord. #3790, Dec. 2000)

13-602. Purpose. Street trees and plantings on public grounds constitute an important public asset of the City of Johnson City enhancing the attractiveness and environmental health of the city, thereby promoting the general and economic well-being of the city. Urban trees are a fragile public resource and may be damaged or destroyed through malicious , careless, or even well-intentioned actions. This public resource may best be improved and protected by a program of comprehensive management and regulation of planting, maintenance, and removal, administered within the government of the city. The goals for the tree program shall be to establish and maintain maximum tree coverage standards; maintain trees in a healthy condition; establish and maintain the optimum level of age and species diversity in the urban forest; promote the conservation of tree resources; select, situate and maintain, street trees appropriately so as to minimize hazard, nuisance, landscape damage, and maintenance costs; maintain the management of the urban forest under a city forester with the necessary expertise; promote the efficient and cost effective management of the urban forest; and foster

community support for the local urban forest program and encourage good tree management on privately owned properties. This program shall be known as the "Urban Forestry Program," or alternatively as the "Tree Program." (Ord. #3790, Dec. 2000)

13-603. Definitions. For the purpose of this ordinance the following terms, phrases, words, and their derivations shall have the meanings given herein. When not inconsistent with the content, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. The word "shall" is mandatory and not merely directory.

(1) "Aggrieved party." The owner of the underlying property or interest in property inclusive of or immediately bordering the site, which becomes the subject matter of a grievance, dispute, or controversy involving a decision of the city forester. This definition also includes any person directly receiving a permit, notice, order, directive, decision, or permit denial.

(2) "City." The City of Johnson City, Tennessee.

(3) "City forester." The city forester or other similarly qualified official designated by the city manager of the City of Johnson City, assigned to carry out the enforcement of this ordinance.

(4) "City property." All real property that is owned, controlled, or leased by the city or which is maintained by it, or any part of any public right of way.

(5) "Diameter at breast height (DBH)." A standard of measure of tree size, consisting of the diameter of the tree at a height of four and one-half (4.5) feet above the ground.

(6) "Governing body of the city." The Board of Commissioners of the City of Johnson City.

(7) "Highway or street." The entire width of every public way or right of way when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular or pedestrian traffic.

(8) "Park." Shall include all city public parks.

(9) "Person." Any person, firm, partnership, association, public utility, private company, or organization of any kind.

(10) "Planting plan." A scaled drawing depicting all plant materials, specifications, and any other information required by the city forester for the evaluation of permit applications.

(11) "Property line." Shall mean the outer edge of the right of way of a highway, street, or public property, as the case may be.

(12) "Property owner." Shall mean the property owner of record or any person owning an interest in property.

(13) "Pruning standards." Generally accepted standards for pruning as defined in the current edition of pruning standards by the accredited standards committee, as may be from time to time amended.

(14) "Public trees." Shall include all shade and ornamental trees now or hereafter growing on any street, right of way, highway, park, or any other property owned or controlled by the city, including the term "street trees."

(15) "Right of way." That property located within and adjoining the public streets, roads, highways, and public easements within the city, which are owned, controlled, or otherwise maintained by the city.

(16) "Street trees." Trees, shrubs, bushes, and all other woody vegetation on land lying within the right of way on either side of any streets, avenues, highways, or ways within the city.

(17) "Topping." The severe cutting back of limbs or trunks within the canopy of a tree so as to remove the normal canopy and disfigure the tree.

(18) "Treelawn." That part of a street or highway right of way not covered by sidewalk or other paving, lying between the adjacent property line and that portion of the street or highway usually used for vehicular traffic.

(19) "Urban forestry program." Program for management of trees within the city as a public resource. (Ord. #3790, Dec. 2000)

13-604. Tree and appearance board. (1) The tree and appearance board, with the advice and consultation of the city forester, shall study the problems and the needs of the City of Johnson City in connection with its urban forestry program and recommend from time to time to the governing body of the city potentially desirable legislation concerning the tree program and related activities for the city.

(2) The tree and appearance board and the city forester shall assist the properly constituted officials of the city, as well as the governing body and citizens of the city, in the dissemination of news and information regarding the selection, planting, and maintenance of trees within the corporate limits, whether they be on private or public property.

(3) The tree and appearance board shall provide regular and special meetings at which the subject of trees, insofar as it relates to the city, may be discussed by the members of the governing body, officers and personnel of the city and its several divisions, and all others interested in the urban forestry program. (Ord. #3790, Dec. 2000)

13-605. Establishment of the position of city forester.

(1) Appointment. The city manager, in his or her sole discretion, has the sole authority to appoint a person to the position of the city forester, who shall be supervised and directed by such person as the city manager may designate.

(2) Authority. General. The city forester, under the supervision and control of the city manager or his designee, shall have the authority and jurisdiction of regulating the planting, maintenance, and removal of trees on streets and other publicly owned property to promote safety and preserve the aesthetics of such public sites. The city forester shall create and implement with approval of the governing body the rules and regulations which shall be referred to as the Arboricultural Specifications and Standards of Practice governing the planting, maintenance, removal, fertilization, pruning, and bracing of trees on the streets, parks, school grounds, and other public places in the city, and shall direct, regulate, and control the planting, maintenance, and removal of all trees growing now or hereafter in any public area of the city. He or she shall cause the provisions of this ordinance to be enforced. The city forester and the traffic engineer shall seek each other's advice in matters concerning trees, which may be a hazard to traffic safety. The city forester and the manager of operations and construction of the Johnson City Power Board shall seek each other's advice concerning trees that may be a hazard to electrical service. The city forester shall assist in educating the community, agencies, city boards, departments, and divisions of the city by:

(a) Providing information and public relations to citizens and groups in the city regarding trees;

(b) Maintaining a list of permitted and prohibited tree species;

(c) Gathering information and publishing reports as needed about city tree resources;

(d) Working with city departments to improve the understanding of trees and tree problems; and

(e) Meeting regularly with the tree and appearance board (established by prior city commission resolution).

(3) Permit authority. The city forester shall have the authority to issue or deny permits for planting, maintenance, trimming, or removal of trees under his or her jurisdiction as authorized. It shall also be his or her duty to supervise or inspect all work done under a permit issued in accordance with the terms of this ordinance.

(4) Master street tree plan. The city forester shall formulate a master street tree plan with the advice of the tree and appearance board for submission to the city's governing body for final approval. The master street tree plan shall specify the species of trees to be planted on each of the streets or other public sites of the city. From and after the effective date of the master street tree plan, or any amendment thereof by the governing body, all planting of public trees shall conform thereto. The city forester, in consultation with the various city departments, shall consider all existing and future traffic, utility and

environmental factors and urban design criteria when selecting a specific species for each of the streets and other public sites of the city. (Ord. #3790, Dec. 2000)

13-606. Interference with city forester. No person shall hinder, prevent, delay, or interfere with the city forester or any of his or her assistants while engaged in carrying out the execution or enforcement of this ordinance; provided, however, that nothing herein shall be construed as an attempt to prohibit the pursuit of any remedy, legal or equitable, in any court of competent jurisdiction for the protection of property rights by an aggrieved party. Upon approval of the governing body of the city, the city manager is authorized to bring suit for injunctive relief in the event any person violates this section. (Ord. #3790, Dec. 2000)

13-607. Right to appeal decision of city forester. Any aggrieved party shall have the right to appeal any decision of the city forester. If a party wishes to contest a decision he or she shall, within ten (10) business days from the date of receipt of such decision, request in writing a hearing before the city manager or his designee for a review of said decision. Any decision by the city manager or his designee shall be final, subject to appeal to a court of competent jurisdiction. (Ord. #3790, Dec. 2000)

13-608. Public tree care. (1) City authority on public grounds. The city shall have the right to plant, prune, maintain and remove trees, plants, branches and shrubs and supervise the same within the property lines of all streets, alleys, avenues, lanes, boulevards, public schools, public grounds, and parks, as it may deem necessary or desirable to promote public safety or to preserve or enhance the symmetry and beauty of such public grounds.

(2) Private planting on public grounds. The planting of street trees by adjacent property owners is lawful, provided that the selection and location of said trees is in accordance with §§ 13-605 and 13-610 of this ordinance. Any trees planted pursuant to this paragraph shall become the absolute property of the city.

(3) Damage. Unless specifically authorized by the city forester, no person shall damage, cut, carve, transplant, or remove any public tree; attach any rope, wire, nails, advertising posters, or other contrivance to any public tree; allow any gaseous, liquid, or solid substance which is harmful to trees to come in contact with any public tree.

(4) Topping. It shall be unlawful for any person, firm, or utility, to top any street tree, public tree, or other tree on public property. Trees on public property, within city right of way, or on city controlled property, severely damaged by storms or other causes, or certain trees under utility wires or other

obstructions where other pruning practices are impractical may be exempted from this provision by the written authorization of the city forester.

(5) Stumps. All stumps of removed street and park trees shall be removed to a depth of three inches (3") below existing grade.

(6) Construction protection. (a) All public trees on any street or other publicly owned or city controlled property near any excavation or construction of any building, structure, or street work, shall be guarded with a good substantial fence, frame, or box not less than four (4) feet high and eight (8) feet square, or at a distance in feet from the tree equal to the diameter of the trunk in inches of diameter at breast height (DBH), whichever is greater, and all equipment and building material, dirt, or other debris shall be kept outside the barrier; provided, however that upon good cause shown the city forester may alter or waive the foregoing requirements in his or her discretion.

(b) No person shall excavate any ditches, tunnels, trenches, or lay any drive within a radius of ten (10) feet from any public tree without first obtaining a written permit. Persons building a driveway within a radius of ten (10) feet from any public tree shall obtain a written permit from the city forester prior to obtaining required driveway permits from the building department of the city.

(c) No person shall deposit, place, store, or maintain upon any public place of the city any stone, brick, sand, concrete, or other materials which may impede the free passage of water, air, and fertilizer to the roots of any tree growing therein, except by written permit of the city forester. (Ord. #3790, Dec. 2000)

13-609. Obstructions. (1) Minimum clearances. Except where an electrical hazard is involved, it shall be the duty of any person or persons owning or occupying real property bordering on any street upon which private property there may be trees, to prune such trees in such manner that they will not obstruct or shade the street lights, obstruct the passage of pedestrians on sidewalks, obstruct the view of any street or alley intersection, or otherwise endanger the public. Where an electrical hazard is involved, it shall be the duty of the person or persons owning or occupying said property to contact the Johnson City Power Board to request the pruning of any offending trees involved with an electrical hazard. The minimum clearance of any overhanging portion thereof shall be eight (8) vertical feet over sidewalks and twelve (12) vertical feet over all streets and vehicular use areas except truck thoroughfares, which shall have a minimum clearance of fourteen (14) vertical feet.

(2) Street trees-- planting near fire hydrants, utilities. No street trees shall be planted closer than ten (10) linear feet to any fire hydrant. No street trees shall be planted closer than twenty (20) feet in a radius to any overhead

electrical, telephone, or other utility wires as measured from the base of the trunk to the vertical plane created by the nearest wire, unless specifically approved by the city forester as a low growth variety suitable for such location.

(3) Removal of dead, diseased, dangerous trees/limbs on private property. Owners and occupiers of property shall remove all dead, diseased or dangerous trees, or broken or decayed limbs on their property, which constitute a menace to the safety of the public.

(4) Trees on private property; distance from overhead utility wires. No person shall plant a tree on private property closer than twenty (20) feet in a radius to any overhead electrical, telephone, or other utility wires that are within the public right-of-way as measured from the base of the trunk to the vertical plane created by the nearest wire, unless specifically approved by the city forester as a low growth variety suitable for such location. (Ord. #3790, Dec. 2000)

13-610. Permits required. (1) General. (a) Except as provided herein, no person shall plant, apply insecticide/pesticide, fertilize, paint, prune, remove, cut above ground, or conduct ground-disturbing activities within the drip line of, or otherwise disturb any public tree on any street or on city-owned or city-controlled property without first filing an application and procuring a written permit. For ground-disturbing activities specifically described in § 13-608(6)(b), the restrictions and distance requirements of said section shall control. The person receiving the permit shall abide by the standards of practice adopted by the city forester and by other reasonable conditions imposed by the city forester.

(b) Applications for permits must be made not less than forty-eight (48) hours in advance of the time the work is to be done. A permit fee is authorized and shall be set by resolution of the governing body of the city.

(c) The permit provided for herein shall be issued, if the proposed work and the proposed method and workmanship thereof are in compliance with the provisions of this ordinance. Any permit granted shall contain a definite date of expiration and the work shall be completed in the time allowed on the permit and in the manner as therein described. Any permit shall be void if its terms are violated.

(d) Within five (5) days of completion the permittee shall notify the city and the city will make a final inspection. Upon approval after inspection, the city shall issue a notice of successful completion.

(e) General permits may be approved for governmental entities. In addition, such permits may be approved for public and private utility companies which install overhead or underground utilities (including cable television installations, street, and water and sewer installations

or other projects by or at the direction of the city); provided that the permit holder's written pruning and trenching specifications have been annually approved by the city forester; provided, further, that removal of any public tree shall have been specifically approved in advance by the city forester. Such general permits may be revoked upon written notice to the permit holder from the city forester in the event the permit holder fails to comply with the provisions of this ordinance or with the conditions of the permit.

(2) Planting. (a) Application data. The application required herein shall state the number of trees to be set out; the location, grade, species, cultivar or variety of each tree; the method of planting; and such other information as the city forester shall find reasonably necessary for a fair determination of whether a permit should be issued. A planting plan shall be required and submitted to the city forester for his or her approval if fifteen (15) or more trees or shrubs are to be planted.

(b) Improper planting. Any tree planted in a manner in conflict with the provisions of this section shall be subject to removal at the sole expense of the person performing the improper planting.

(3) Maintenance. Application data. The application for maintenance required herein shall state the number and kinds of trees to be sprayed, fertilized, pruned, or otherwise maintained; the kind of treatment to be administered; the composition of the spray material to be applied; and such other information as the city forester shall find reasonably necessary for a fair determination of whether a permit should be issued.

(4) Removal, replanting and replacements. (a) Wherever it is necessary for the city to remove a tree or trees from a treelawn in connection with the paving of a sidewalk, or the paving or widening of the portion of a street or highway used for vehicular traffic, the city may replant such trees or replace them. If conditions prevent planting within the treelawns, this requirement will be satisfied if any equivalent number of trees of the same size and species as provided for in the master street tree plan are planted in an attractive manner on city property near or adjacent to the site of the removed tree.

(b) No person or property owner shall remove a tree from the treelawn for any reason without first filing an application and procuring a permit from the city forester. (Ord. #3790, Dec. 2000)

13-611. Utility responsibility on private property. All work performed on private property by public and private utilities or by their contractors, agents, or employees, which install and/or maintain overhead and underground utilities (including but not limited to cable television installations, telephone service, electric service, gas service, and water and sewer installations

by or at the direction of the city department of public works or water/sewer department) shall be performed in accordance with pruning and trenching specifications approved by the city forester. (Ord. #3790, Dec. 2000)

13-612. Dead or diseased tree removal on private property.

(1) The city shall have the right to order or cause the removal of any trees on private property that are of such hazard to life or property as to constitute a public nuisance or harbor insects or disease that constitute a potential threat to other trees within the city. The city forester shall determine in his or her sole discretion, which tree or trees are to be removed.

(2) Unless such trees pose an immediate hazard to public safety, the owner of such trees will be ordered, in writing, to remove said trees, stating the reason for the removal and the location of said tree or trees to be removed. Said owner at the owner's expense shall do removal within thirty (30) calendar days after the date of service of the order to remove. In the event the owner fails to comply with such order to remove, or if public safety considerations require immediate removal, the city may elect to proceed to remove said tree or trees, and to charge removal costs to the owner of the property as set forth hereafter. (Ord. #3790, Dec. 2000)

13-613. Violations declared nuisances. The planting of any new tree after the passage of this ordinance in violation of the provisions of this ordinance by any person is declared to be a public nuisance dangerous to the public safety and shall be abated as set forth herein. The city forester has the authority to declare any tree that violates this ordinance to be a public nuisance dangerous to the public safety and shall be abated as set forth herein. (Ord. #3790, Dec. 2000)

13-614. Notice requiring abatement of violations; abatement by city; lien for costs. With the exception of trees posing immediate hazard to public safety pursuant to § 13-612(2), upon ascertaining a violation of the provisions of this ordinance, the city forester shall cause to be served upon the offender personally or by certified mail a written notice to abate which shall:

(1) Describe the conditions constituting a nuisance under this ordinance, and

(2) State that the nuisance may be abated by the city at the expense of the offender at the expiration of thirty (30) calendar days from the date of service of such notice if the condition is not corrected by the offender. If the whereabouts of the offender are unknown and unascertainable by the city forester in the exercise of reasonable diligence, the city forester shall:

(a) Make an affidavit to that effect, and the service of the written notice to abate may be made by publishing the same once each

week for two (2) consecutive weeks in a newspaper of general circulation in the county of the offender's residence;

(b) Post a copy of the written notice to abate in a conspicuous place on the premises affected by the notice;

(c) A copy of the written notice to abate may also be filed for record in the register's office of the county in which the offender's residence is located, and such filing shall have the same force and effect as other lis pendens notices as provided by law. If, at the expiration of thirty (30) calendar days from the date of service of said notice to abate, the condition constituting a nuisance has not been corrected, then the city may abate or cause such condition to be abated at the expense of the offender under the directions of the city forester. The city shall have a lien on the property upon which such nuisance is located to secure the amount expended for the abatement of such nuisance. (Ord. #3790, Dec. 2000)

13-615. **Violation and penalty**. Any person found to have violated any provision of this ordinance, or any person found to have failed or refused to comply with any notice to abate or other notice issued by the city forester within the time allowed by such notice or found to have interfered with the abatement of a nuisance referred to in § 13-612 herein, shall be upon conviction in municipal court guilty of violating this ordinance; each day of such violation or failure or refusal to comply shall be deemed a separate offense and punishable accordingly. In addition to other remedies for violations of this ordinance, each violation of this ordinance shall be punishable by a fine of fifty dollars ($50.00). (Ord. #3790, Dec. 2000)

13-616. **Duty**. Nothing contained in this ordinance shall be construed as creating or imposing a duty on the City of Johnson City, its board of commissioners, or its employees to do any act or refrain from doing any act authorized herein. (Ord. #3790, Dec. 2000)

TITLE 14

ZONING AND LAND USE CONTROL

CHAPTER

CHAPTER 1

REGIONAL PLANNING COMMISSION

SECTION

14-101. Definition. The words "appointive member," as used in this chapter, shall mean the eight (8) members of the regional planning commission other than both the mayor (or mayor's designee) and the member of the board of commissioners serving on the planning commission. (1985 Code, § 2-150, as replaced by Ord. #4544-14, Aug. 2014)

14-102. Established; composition; appointment; terms; vacancies; compensation. (1) Generally. In order to guide and accomplish a co-ordinated and harmonious development of the city and region which will, in accordance with existing and future needs, best promote public health, safety, morals, order, convenience, prosperity and the general welfare, as well as efficiency and economy in the process of development, a regional planning commission is hereby established, organized, and empowered as provided in this chapter and as provided in state law.

(2) Membership. The regional planning commission shall consist of ten (10) members. One (1) of the members shall be the mayor (or the mayor's designee), one (1) shall be a member of the board of commissioners selected by the board of commissioners, and the remaining members shall be appointed pursuant to Tennessee Code Annotated, §§ 13-4-101 and 13-3-102. The terms of the eight (8) appointive members, last referred to, that is the eight (8) members other than the mayor (or mayor's designee) and the member of the board of commissioners, shall be for staggered terms of three (3) years. Any vacancies in the membership of the regional planning commission shall be filled for the

unexpired term pursuant to state law. The term of the mayor (or the mayor's designee) and the member selected from the board of commissioners shall run concurrently with his or her membership on the board of commissioners or his or her term of office as mayor as the case may be. All members shall serve without compensation. In selecting a member from the board of commissioners, the board of commissioners shall act by resolution passed by a majority vote of its membership. (1985 Code, § 2-151, as replaced by Ord. #4544-14, Aug. 2014)

14-103. Chairperson; operating procedure; expenditures. The regional planning commission shall elect its chairperson from among its members. The term of the chairperson shall be one (1) year with eligibility for re-election. The regional planning commission shall adopt by-laws and rules for the transactions, findings and determinations, which record shall be a public record. The Planning Division of the Development Services Department of the City of Johnson City shall provide the staff for services to the Johnson City Regional Planning Commission. (1985 Code, § 2-152, as replaced by Ord. #4544-14, Aug. 2014)

14-104. Powers and duties. The regional planning commission shall have all the powers, duties, and responsibilities as set forth in Tennessee Code Annotated, title 13, chapters 3 and 4, or other acts relating to the duties and powers of the regional planning commission adopted subsequent thereto. (1985 Code, § 2-153, as replaced by Ord. #4544-14, Aug. 2014)

CHAPTER 2

ZONING ORDINANCE

SECTION

14-201. Land use to be governed by zoning ordinance. Land use within the City of Johnson City shall be governed by Ordinance #1925, titled "Zoning Code of the City of Johnson City, Tennessee," and any amendments thereto.[1]

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[1]Ordinance #1925, and any amendments thereto, may be found at http://www.johnsoncitytn.com/documents/?doc=zoningcodes.

Amendments to the zoning map are of record in the office of the city engineer.

CHAPTER 3

STORMWATER ORDINANCE

SECTION

14-301. General provisions. 1. Purpose. It is the purpose of this ordinance to:

(a) Apply to all areas located within the jurisdiction of the City of Johnson City, Tennessee.

(b) Protect, maintain, and enhance the environment of the City of Johnson City, Tennessee, and the public health, safety and the general welfare of the citizens of the city, by controlling discharges of pollutants to the public stormwater system, with the intent of maintaining and improving the quality of the receiving waters into which the stormwater outfalls flow, including, without limitation, lakes, rivers, streams, ponds, wetlands, and groundwater of the city.

(c) Enable the City of Johnson City, Tennessee, to comply with the National Pollutant Discharge Elimination System permit (NPDES) and applicable regulations, 40 CFR 122.26 for stormwater discharges.

(d) Allow the City of Johnson City, Tennessee, to exercise powers granted in Tennessee Code Annotated, § 68-221-1105, which provides that, among other powers municipalities have with respect to water quality management facilities, is the power by ordinance or resolution to:

(i) Exercise general regulation over the planning, location, construction, and operation and maintenance of water quality management facilities in the municipality, whether or not owned and operated by the municipality;

(ii) Adopt any rules and regulations deemed necessary to accomplish the purposes of this statute;

(iii) Establish standards to regulate stormwater contaminants as may be necessary to protect water quality;

(iv) Review and approve plans and plats for water quality management in proposed subdivisions or commercial developments;

(v) Issue permits for stormwater discharges or for the construction, alteration, extension, or repair of water quality management 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) Expend funds to remediate or mitigate the detrimental effects of contaminated land or other sources of stormwater contamination, whether public or private.

(2) Administration. The city manager and the staff under the city manager's supervision shall administer provisions of this ordinance. (as added by Ord. #4293-07, Feb. 2008)

14-302. Definitions. For purposes of this chapter, 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.

For the purpose of this chapter, the following definitions shall apply:

(1) "Best Management Practices (BMP or BMPs)." Schedules of activities, prohibitions of practices, maintenance procedures, water quality management facilities, structural controls and other management practices designed to prevent or reduce the pollution of waters of the United States. Water quality BMPs may include structural devices, such as water quality management facilities, or non-structural practices such as buffers or natural open spaces.

(2) "CFR." Code of Federal Regulations.

(3) "Channel." A natural or man-made watercourse of perceptible extent, with definite bed and banks to confine and conduct continuously or periodically flowing water.

(4) "City." City of Johnson City, Tennessee.

(5) "City manager." The City Manager of the City of Johnson City, Tennessee, or his/her designee.

(6) "Construction." Any placement, assembly, or installation of facilities or equipment (including contractual obligations to purchase such facilities or equipment) at the premises where such equipment will be used, including preparation work at such premises.

(7) "Covenants for permanent maintenance of water quality facilities and best management practices." A legal document executed by the property owner, or a homeowners' association as owner of record, and recorded with the Register of Deeds in Sullivan, Carter, and Washington County, Tennessee which guarantees perpetual and proper maintenance of water quality management facilities and best management practices.

(8) "Development." Any land change that alters the hydrologic or hydraulic conditions of any property. Often referred to as "site development." Development includes, but is not limited to, providing access to a site, clearing of vegetation, grading, earth moving, providing utilities, roads and other services such as parking facilities, water quality management facilities and erosion control systems, potable water and wastewater systems, altering land forms, or construction or demolition of a structure on the land.

(9) "Development plan." Detailed engineered/architectural drawing(s) of a commercial, industrial, institutional or residential development project, showing existing site conditions and proposed improvements with sufficient detail (e.g., technical reports, specifications, survey) for city review, approval, and then subsequent construction. The contents of a development plan are further defined by the city zoning ordinance, subdivision regulations, building code and other city departmental standards for constructing developments and public works projects.

(10) "Existing stormwater facility." Any existing structural feature that slows, filters, or infiltrates runoff after a rainfall event.

(11) "Hotspot." An area where the land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.

(12) "Lake." An inland body of standing water, usually of considerable size.

(13) "NPDES." National Pollutant Discharge Elimination System. NPDES is the program administered by the United States Environmental Protection Agency to eliminate or reduce pollutant discharges to the waters of the United States.

(14) "Owner or property owner." The legal owner of the property as recorded in the register of deeds office for Sullivan, Carter, and Washington County, Tennessee.

(15) "Person." Any individual, firm, corporation, partnership, association, organization or entity, including governmental entities, or any combination thereof.

(16) "Pond." An inland body of standing water that is usually smaller than a lake.

(17) "Redevelopment." The improvement of a lot or lots that have been previously developed.

(18) "Sediment." Solid material, either mineral or organic, that is in suspension, is being transported, or has been moved from its site of origin by erosion.

(19) "Stormwater." Also "stormwater runoff" or "runoff." Surface water resulting from rain, snow or other form of precipitation, which is not absorbed into the soil and results in surface water flow and drainage.

(20) "Stream." For the specific purpose of vegetated buffers, a stream is defined as a linear surface water conveyance that can be characterized with either perennial or ephemeral base flow and:

(a) Is regulated by the city as a Special Flood Hazard Area (SFHA); or

(b) Is or has been identified by the city, the United States Army Corps of Engineers, or the Tennessee Department of Environment and Conservation as a stream.

(21) "Structure." Anything constructed or erected such that the use of it requires a more or less permanent location on or in the ground. Such construction includes, but is not limited to, objects such as buildings, towers, smokestacks, overhead transmission lines, carports and walls.

(22) "TMDL." Total Maximum Daily Load. A TMDL is a calculation of the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards, and an allocation of that amount to the source(s) of the pollutant.

(23) "Transporting." Any moving of earth materials from one place to another, other than such movement incidental to grading, as authorized on an approved plan.

(24) "Vegetated buffer." A use-restricted vegetated area that is located along the perimeter of streams, ponds, lakes or wetlands, containing natural vegetation and grasses, or enhanced or restored vegetation.

(25) "Water quality BMP manual." A document prepared and maintained by the city, which contains policies, design standards and criteria, technical specifications and guidelines, maintenance guidelines, and other supporting documentation to be used as the policies and technical guidance for implementation of the provisions of this ordinance.

(26) "Water quality management facilities." Structures and constructed features designed to prevent or reduce the discharge of pollution in stormwater runoff from a development or redevelopment. Water quality management facilities can often be referred to as BMPs.

(27) "Water quality management plan." An engineering plan for the design of water quality management facilities and best management practices within a proposed development or redevelopment. The water quality management plan includes a map showing the extent of the land development activity and location of water quality management facilities and BMPs, design calculations for water quality management facilities and BMPs, and may

contain record drawings/certifications and covenants for permanent maintenance of water quality facilites and best management practices.

(28) "Water quality volume reduction." A decrease in the water quality volume for one or more areas of a proposed development which is obtained only for specific site development features or approaches that can reduce or eliminate the discharge of pollutants in stormwater runoff. Water quality volume reductions can only be obtained when specific guidelines presented in the water quality BMP manual are met.

(29) "Water quality volume reduction areas." Areas with the proposed development or redevelopment for which a water quality volume reduction can be obtained.

(30) "Wetland." An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetland determination shall be made by the United States Army Corps of Engineers, and/or the Tennessee Department of Environment and Conservation, and/or the Natural Resources Conservation Service. (as added by Ord. #4293-07, Feb. 2008)

14-303. Authority. (1) The city manager is authorized to adopt additional policies, criteria, specifications and standards for the proper implementation of the requirements of this ordinance in a water quality BMP manual. The policies, criteria and requirements of the water quality BMP manual shall be enforceable, consistent with other provisions of this ordinance.

(2) The city manager shall have the authority to prepare, or have prepared, master plans for drainage basins and to establish regulations or direct capital improvements to carry out said master plans.

(3) In the event that the city manager determines that a violation of any provision of this ordinance has occurred, or that work does not have a required plan or permit, or that work does not comply with an approved plan or permit, the city manager may issue a notice of violation to the permittee or property owner and/or any other person or entity having responsibility for construction work performed at a site development. (as added by Ord. #4293-07, Feb. 2008)

14-304. Water quality management. (1) General requirements.

(a) Owners of land development activities not exempted under subsection (3) must submit a water quality management plan. The water quality management plan shall be submitted as part of the Development plan, as required by the city zoning ordinance, subdivision regulations, building code and other standards for development plans.

(b) The water quality management plan shall include the specific required elements that are listed and/or described in the water

quality BMP manual. The city manager may require submittal of additional information in the water quality management plan as necessary to allow an adequate review of the existing or proposed site conditions.

(c) The water quality management plan shall be subject to any additional requirements set forth in the minimum subdivision regulations, zoning ordinance, or other city ordinances and regulations.

(d) Water quality management plans shall be prepared and stamped by an engineer, landscape architect, or architect competent in civil and site design and licensed to practice in the State of Tennessee. Portions of the plan that require hydraulic or hydrologic calculations and design shall be prepared and stamped by a design professional competent in civil and site design and licensed to practice in the State of Tennessee.

(e) The approved water quality management plan shall be adhered to during grading and construction activities. Under no circumstance is the owner or operator of land development activities allowed to deviate from the approved water quality management plan without prior approval of a plan amendment by the city manager.

(f) The approved water quality management plan shall be amended if the proposed site conditions change after plan approval is obtained, or if it is determined by the city manager during the course of grading or construction that the approved plan is inadequate.

(g) The water quality management plan shall include a listing of any legally protected state or federally listed threatened or endangered species and/or critical habitat (if applicable) located in the area of land disturbing activities, and a description of the measures that will be used to protect them during and after grading and construction.

(h) Water quality management facilities, BMPs, vegetated buffers and water quality volume reduction areas shown in water quality management plans shall be maintained through the declaration of a protective covenant, entitled Covenants for Permanent Maintenance of Water Quality Facilities and Best Management Practices (Covenant). The covenants must be approved and shall be enforceable by the city. The covenant shall be recorded with the deed and shall run with the land and continue in perpetuity.

(i) Water quality management facilities, BMPs, vegetated buffers and water quality volume reduction areas shall be placed into a permanent water quality easement that is recorded with the deed to the parcel and held by the city.

(j) A maintenance right-of-way or easement, having a minimum width of twenty feet (20') shall be provided to all water quality management facilities, BMPs, vegetated buffers and water quality volume reduction areas from a driveway, public road or private road.

(k) Owners of land development activities not exempted from submitting a water quality management plan may be subject to additional watershed or site-specific requirements than those stated in subsection (2) of this section in order to satisfy local or state NPDES, TMDL or other regulatory water quality requirements. Areas subject to additional requirements may also include developments, redevelopments or land uses that are considered pollutant hotspots or areas where the city manager has determined that additional restrictions are needed to limit adverse impacts of the proposed development on water quality or channel protection.

(l) The city manager may waive or modify any of the requirements of § 14-304 of ordinance if adequate water quality treatment and channel protection are suitably provided by a downstream or shared off-site water quality management facility, or if engineering studies determine that installing the required water quality management facilities or BMPs would actually cause adverse impact to water quality or cause increased channel erosion or downstream flooding.

(m) This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, deed restrictions, or existing ordinances and regulations. However, where the provisions of this ordinance and another regulation conflict or overlap, that provision which is more restrictive or imposes higher standards or requirements shall prevail. It is required that the city manager be advised of any such regulatory conflicts by the owners required to submit the water quality management plan.

(2) Design criteria. (a) All owners of developments or redevelopments who must submit a water quality management plan shall provide treatment of stormwater runoff in accordance with the following requirements:

(i) The stormwater runoff site must be treated for water quality prior to discharge from the development or redevelopment site in accordance with the stormwater treatment standards and criteria provided in the water quality BMP manual.

(ii) The treatment of stormwater runoff shall be achieved through the use of one or more water quality management facilities and/or BMPs that are designed and constructed in accordance with the design criteria, guidance, and specifications provided in the water quality BMP Manual.

(iii) Methods, designs or technologies for water quality management facilities or BMPs that are not provided in the water quality BMP manual may be submitted for approval by the city manager if it is proven that such methods, designs or technologies will meet or exceed the stormwater treatment standards set forth

in the water quality BMP manual and this ordinance. Proof of such methods, designs, or technologies must meet the minimum testing criteria set forth in the water quality BMP manual.

(iv) BMPs shall not be installed in public rights-of way or on property without prior approval of the city manager.

(b) All owners of developments or redevelopments who are required to submit a water quality management plan shall provide downstream channel erosion protection in accordance with design criteria stated in the water quality BMP manual. Downstream channel erosion protection can be provided by an alternative approach in lieu of controlling the channel protection volume subject to prior approval by the city manager. Sufficient hydrologic and hydraulic analysis that shows that the alternative approach will offer adequate channel protection from erosion must be presented in the water quality management plan.

(c) All owners of developments or redevelopments who must submit a water quality management plan shall establish, protect and maintain a vegetated buffer in accordance with the policies, criteria and guidance set forth in the water quality BMP manual along all streams, ponds, lakes and wetlands. Exemptions from this requirement are as follows:

(i) Vegetated buffers are not required around the perimeter of ponds that have no known connection to streams, other ponds, lakes or wetlands.

(ii) Vegetated buffers are not required around water quality management facilities or BMPs that are designed, constructed and maintained for the purposes of water quality and/or quantity (i.e., stormwater drainage) control, unless expressly required by the design standards and criteria for the facility that are provided in the water quality BMP manual.

(d) In addition to the above requirements, all owners of developments or redevelopments who must submit a water quality management plan shall:

(i) Provide erosion prevention and sediment control in accordance with the ordinances and regulations of the city;

(ii) Control stormwater drainage and provide peak discharge/volume control in accordance with the ordinances and regulations of the city; and

(iii) Adhere to all local floodplain development requirements in accordance with ordinances and regulations of the city.

(3) Exemptions. (a) Owners of developments and redevelopments who conform to the criteria in § 14-304(3)(c) are exempt from the requirements

of this chapter, unless the city manager has determined that treatment of stormwater runoff for water quality is needed to order to satisfy local or state NPDES, TMDL or other regulatory water quality requirements, or the proposed development will be a pollutant hotspot, or to limit adverse water quality or channel protection impacts of the proposed development.

(b) The exemptions listed in § 14-304(3)(c) shall not be construed as exempting these owners of developments and redevelopments from compliance with stormwater requirements stated in the minimum subdivision regulations, zoning ordinance, or other city ordinances and regulations.

(c) The following developments and redevelopments are exempt from the requirements for a water quality management plan:

(i) Developments or redevelopments that disturb less than one (1) acre of land. No exemption is granted if the development or redevelopment is part of a larger common plan of development or sale that would disturb one (1) acre or more and the stormwater runoff is not treated for water quality via a downstream or regional water quality management facility or BMP that meets the requirements of this ordinance;

(ii) Minor land disturbing activities such as residential gardens and residential or non-residential repairs, landscaping, or maintenance work;

(iii) Individual utility service connections, unless such activity is carried out in conjunction with the clearing, grading, excavating, transporting, or filling of a lot or lots for which a water quality management plan would otherwise be required;

(iv) Installation, maintenance or repair of individual septic tank lines or drainage fields, unless such activity is carried out in conjunction with the clearing, grading, excavating, transporting, or filling of a lot or lots for which a water quality management plan would otherwise be required;

(v) Installation of posts or poles;

(vi) Farming activities;

(vii) Emergency work to protect life, limb or property, and emergency repairs.

(4) Performance bonds. (a) A performance bond that guarantees satisfactory completion of construction work related to water quality management facilities, channel protection, and/or the establishment of vegetated buffers may be required.

(b) Performance bonds shall name the City of Johnson City, Tennessee, as beneficiary and shall be guaranteed in the form of a surety bond, cashier's check, or letter of credit from an approved financial

institution or insurance carrier. The surety bond, cashier's check, or letter of credit shall be provided in a form and in an amount to be determined by the city manager. The actual amount shall be based on submission of plans and estimated construction, installation or potential maintenance and/or remediation expenses.

(c) The city manager may refuse brokers or financial institutions the right to provide a surety bond, letter of credit, or cashier's check based on past performance, ratings of the financial institution, or other appropriate sources of reference information.

(5) Special pollution abatement requirements. (a) A special pollution abatement plan shall be required for the following land uses, which are considered pollutant hotspots:

(i) Vehicle, truck or equipment maintenance, fueling, washing or storage areas including but not limited to: automotive dealerships, automotive repair shops, and car wash facilities;

(ii) Recycling and/or salvage yard facilities;

(iii) Restaurants, grocery stores, and other food service facilities;

(iv) Commercial facilities with outside animal housing areas including animal shelters, fish hatcheries, kennels, livestock stables, veterinary clinics, or zoos;

(v) Other producers of pollutants identified by the city manager as a pollutant hotspot using information provided to or collected by him/her or his/her representatives, or reasonably deduced or estimated by him/her or his/her representatives from engineering or scientific study.

(b) A special pollution abatement plan may be required for land uses or activities that are not identified by this ordinance as hotspot land uses, but are deemed by the city manager to have the potential to generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.

(c) The special pollution abatement plan shall be submitted as part of the water quality management plan, and the BMPs submitted on the plan shall be subject to all other provisions of this ordinance. Technical requirements for the plan shall be based on the provisions and guidelines set forth in the water quality BMP manual.

(d) Best management practices specified in the special pollution abatement plan must be appropriate for the pollutants targeted at the site and must be approved with the water quality management plan.

(e) A special pollution abatement plan will be valid for a period of five (5) years, at which point it must be renewed. At the time of renewal, any deficiency in the pollutant management method must be corrected. (as added by Ord. #4293-07, Feb. 2008)

14-305. NPDES permits. Persons or entities who hold NPDES general, individual and/or multi-sector permits shall provide either a copy of such permit or the permit number assigned to them by the Tennessee Department of Environment and Conservation to the city manager no later than sixty (60) calendar days after issuance of the permit. (as added by Ord. #4293-07, Feb. 2008)

14-306. Record drawings/design certification. (1) Prior to the release of a bond, record drawings shall be provided to the city manager, certifying that all water quality management facilities and BMPs comply with the design shown on the approved water quality management plan(s). Features such as the boundaries of vegetated buffers and water quality volume reduction areas shall be provided to verify approved plans. Other contents of the record drawings must be provided in accordance with guidance provided in the water quality BMP manual.

(2) Record drawings shall include sufficient design information to show that water quality management facilities required by this ordinance will operate as approved. This shall include all necessary computations used to determine percent pollutant removal and the flow rates and treatment volumes required to size water quality management facilities and BMPs.

(3) The record drawings shall be stamped by the appropriate design professional required to stamp the water quality management plan, as stated in § 14-304(1) of this chapter and/or a registered land surveyor licensed to practice in the State of Tennessee. (as added by Ord. #4293-07, Feb. 2008)

14-307. Inspections and maintenance. (1) Right of entry.

(a) During and after construction, the city manager may enter upon any property which has a water quality management facility, BMP, vegetated buffer or water quality volume reduction area during all reasonable hours to inspect for compliance with the provisions of this ordinance, or to request or perform corrective actions.

(b) Failure of a property owner to allow such entry onto a property for the purposes set forth in section 10.1(a) shall be cause for the issuance of a stop work order, withholding of a certificate of occupancy, and/or civil penalties and/or damage assessments in accordance with § 14-312 of this chapter.

(2) Requirements. (a) The owner(s) of existing stormwater facilities, water quality management facilities, BMPs, vegetated buffers and water quality volume reduction areas shall at all times inspect and properly operate and maintain all facilities and systems of water quality treatment and drainage control (and related appurtenances), and all vegetated buffers and water quality volume reduction areas in such a manner as to maintain the full function of the facilities or best management practices

which are installed or used by the property owner(s) to achieve compliance with this ordinance.

(b) Inspection and maintenance of privately-owned existing stormwater facilities, water quality management facilities, best management practices, vegetated buffers and water quality volume reduction areas shall be performed at the sole cost and expense of the owner(s) of such facilities/areas.

(c) Inspections and maintenance shall be performed in accordance with specific requirements and guidance provided in the water quality BMP manual. Inspection and maintenance activities shall be documented by the property owner (or his/her designee), and such documentation shall be maintained by the property owner for a minimum of three (3) years, and shall be made available for review by the city manager upon request.

(d) The city manager has the authority to impose more stringent inspection requirements as necessary for purposes of water quality protection and public safety.

(e) Prior to release of the performance bond, the property owner shall provide the city with an accurate record drawing of the property and an executed protective covenant for all BMPs, vegetated buffers, and areas that receive water quality volume reductions. The property owner shall record these items in the office of the register of deeds where the property is situated for Washington, Sullivan, or Carter Counties, Tennessee, as the case may be. The location of the best management practices, water quality management facilities, vegetated buffers and water quality volume reduction areas, and the water quality easements associated with these facilities/areas, shall be shown on a plat that is also recorded where the property is situated in the office of the Register of Deeds for Washington, Sullivan, or Carter Counties, Tennessee, as the case may be.

(f) The removal of sediment and/or other debris from existing stormwater facilities, water quality management facilities and best management practices shall be performed in accordance with all city, state, and federal laws. Guidelines for sediment removal and disposal are referenced in the water quality BMP manual. The city manager may stipulate additional guidelines if deemed necessary for public safety.

(g) The city manager may order corrective actions to best management practices, existing stormwater facilities, water quality management facilities, vegetated bugger areas and/or water quality volume reduction areas as are necessary to properly maintain the facilities/areas within the city for the purposes of water quality treatment, channel erosion protection, adherence to local performance standards, and/or public safety. If the property owner(s) fails to perform

corrective action(s), the city manager shall have the authority to order the corrective action(s) to be performed by the city or others. In such cases where a performance bond exists, the city shall utilize the bond to perform the corrective actions. In such cases where a performance bond does not exist, the property owner shall reimburse the city for double its direct and related expenses. If the property owner fails to reimburse the city, it is authorized to file a lien for said costs against the property and to enforce the lien by judicial foreclosure proceedings.

(h) This ordinance does not authorize access to adjoining private property by the property owner or site operator. Arrangements concerning removal of sediment or pollutants on adjoining property must be settled by the owner or operator with the adjoining landowner. (as added by Ord. #4293-07, Feb. 2008)

14-308. Permit controls and stormwater system. (1) Any alteration, improvement, or disturbance to water quality management facilities, vegetated buffers or water quality volume reduction areas shown in certified record drawings shall be prohibited without authorization from the city manager. This does not include alterations that must be made in order to maintain the intended performance of the water quality management facilities or BMPs.

(2) Other state and/or federal permits that may be necessary for construction in and around streams and/or wetlands shall be approved through the appropriate lead regulatory agency prior to approval of a water quality management plan by the city. (as added by Ord. #4293-07, Feb. 2008)

14-309. Severability. (1) Each separate provision of this ordinance is deemed independent of all other provisions herein so that if any provision or provisions of this ordinance shall be declared invalid, all other provisions thereof shall remain enforceable.

(2) If any provisions of this ordinance and any other provisions of law impose overlapping or contradictory regulations, or contain any restrictions covering any of the same subject matter, that provision which is more restrictive or imposes higher standards or requirements shall govern. (as added by Ord. #4293-07, Feb. 2008)

14-310. Responsibility. This ordinance does not imply a warranty or the assumption of responsibility on the part of the city for the suitability, fitness or safety of any structure with respect to flooding, water quality, or structural integrity. This ordinance is a regulatory instrument only, and is not to be interpreted as an undertaking by the city to design any structure or facility. (as added by Ord. #4293-07, Feb. 2008)

14-311. Variances. (1) Variances to the requirements of this ordinance shall be handled by the city manager as defined under § 14-302.

(2) The city manager shall not approve variances that cause the city to be in violation of any state or federal NPDES permit, TMDL, or other applicable water quality regulation. (as added by Ord. #4293-07, Feb. 2008)

14-312. Penalties and appeals. (1) Violations of this ordinance shall be cause for the requirement for corrective action(s), the issuance of a stop work order, withholding of a permit, withholding of permit inspections, withholding of a certificate of occupancy, and/or civil penalties and/or damage assessments as set forth below.

(2) Any person who violates the provisions of this ordinance shall be subject to a civil penalty of not less than fifty dollars ($50.00) or more than five thousand dollars ($5,000.00) per day for each day of each violation. Each day of violation may constitute a separate violation. The city shall give the alleged violator reasonable notice of the assessment of any civil penalty. The city may also recover all damages proximately caused to the city by such violations.

(3) In assessing a civil penalty, the following factors may be considered:

(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) In addition to the civil penalty in subsection (2) above, the city may also assess damages proximately caused by the violator to the city which may include any reasonable expenses incurred in investigating and enforcing violations of this part, or any other actual damages caused by the violation.

(5) Notice of damage assessment and civil penalty shall be served upon the alleged violator by personal delivery or certified mail, return receipt requested. Service by mail shall be deemed complete upon mailing. If the alleged violator is dissatisfied, the alleged violator may appeal said civil penalty or damage assessment to the board of commissioners of the City of Johnson City. Said appeal must be received by the city manager's office within thirty (30) days after service of the notice of damage assessment and civil penalty. The appeal shall be heard by Board of commissioners of the City of Johnson City within

thirty (30) days following receipt of the appeal. The board of commissioners may continue the hearing and allow continuances to either the city or the alleged violator for good cause shown. If a timely appeal of the damage assessment or civil penalty is not filed with the city manager's office, the violator shall be deemed to have consented to the damage assessment or civil penalty and it shall become final. If the alleged violator files a timely appeal with the city manager's office and the violator is dissatisfied with the decision of the board of commissioners of the City of Johnson City, the alleged violator may appeal the decision of the board of commissioners of the City of Johnson City pursuant to the provisions of Tennessee Code Annotated, title 27, chapter 8.

(6) Whenever any damage assessment or penalty has become final because person's failure to appeal the assessment or civil penalty, the city may apply to the appropriate chancery court for a judgment and seek execution of such judgment. The court, in such proceedings, shall treat the failure to appeal such damage assessment or civil penalty as a confession of judgment. (as added by Ord. #4293-07, Feb. 2008)

TITLE 15

MOTOR VEHICLES, TRAFFIC AND PARKING[1]

CHAPTER

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[1]Charter references

Insurance coverage: § 7.35
Traffic regulation by city manager: § 45.10.
Municipal code references
Ambulance services: title 9, chapter 21.
Fire protection: title 7.
Law enforcement: title 6.
Streets and sidewalks, etc.: title 16.
State law references
Motor and other vehicles: Tennessee Code Annotated, title 55.
Adoption of statutes and regulations by municipalities: Tennessee Code Annotated, § 55-10-307.
Enforcement within municipalities: Tennessee Code Annotated, § 55-10-308.
Traffic citations: Tennessee Code Annotated, § 7-63-101, et seq.

CHAPTER 1

MISCELLANEOUS

SECTION

15-101. Definitions. The following words and phrases when used in this chapter shall for the purposes of such chapter have the meanings respectively ascribed to them in this section. Whenever any words and phrases used in this chapter are not defined in this section but are defined in the state laws regulating the operation of vehicles, any such definition in such state law shall be deemed to apply to such words and phrases used in this chapter.

(1) "Authorized emergency vehicle." Fire department vehicles, police vehicles and such ambulances and emergency vehicles of the city departments

or public service corporations as are designated or authorized by the chief of police.

(2) "Bicycle." A vehicle propelled by human power, having wheels of which any two are not less than fourteen (14) inches in diameter.

(2.1) "Bicycle, electric-assisted." Also known as an "e-bike," an electric-assisted bicycle is a type of bicycle that has two (2) or three (3) wheels, a saddle, fully operable pedals for human propulsion, an integrated electric (not gas) motor with a maximum output of seven hundred fifty (750) watts, and is divided into three (3) classifications:

(a) Class 1. A class 1 electric-assisted bicycle provides assistance only when the rider is pedaling (no built-in throttle), and that ceases to provide assistance when the bicycle reaches the speed of twenty (20) miles per hour.

(b) Class 2. A class 2 electric-assisted bicycle, also known as a "low-speed throttle-assisted electric bicycle" is a bicycle equipped with an electric motor that may be used exclusively to propel the bicycle, without pedaling, and that is not capable of providing assistance when the bicycle reaches the speed of twenty (20) miles per hour.

(c) Class 3. A class 3 electric-assisted bicycle, also known as a "speed pedal-assisted electric bicycle" is a bicycle equipped with an electric motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the bicycle reaches the speed of twenty-eight (28) miles per hour, and is equipped with a speedometer.

(3) "Bicycle lane, conventional." A portion of a roadway which has been designated for the exclusive use of bicycles.

(3.1) "Bicycle lane, protected." A portion of, or adjacent to, the roadway which has been designated for the exclusive use of bicycles and has some physical, stationary, or vertical separation between moving motor vehicle traffic and the bicycle lane. Examples of vertical separation include, but are not limited to, plastic posts, bollards, curbs, planters, raised bumps, or parked cars. Protected bicycle lanes can be at street level or raised, either to sidewalk level or a level between the street and sidewalk level.

(4) "Business district." The territory contiguous to and including a highway when within any six hundred (600) feet along such highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks or office buildings, railroad stations and public buildings which occupy at least three hundred (300) feet of frontage on one (1) side or three hundred (300) feet collectively on both sides of the highway.

(5) "Central business district." All streets and portions of streets within the area described as follows: All that area bounded by Millard Street from Division Street to Boone Street and Lamont from Boone Street to Sevier on the north; by Sevier Street from Walnut to Lamont Street and by Boone Street to Millard Street on the east; by Walnut Street from Sevier Street to Division Street on the south; and Division Street from Walnut Street to Millard Street on the east. This includes both sides of the streets bounding the areas.

(6) "Commercial vehicle." Every vehicle designed, maintained or used primarily for the transportation of property.

(7) "Controlled-access highway." Every highway, street or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same, except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street or roadway.

(8) "Crosswalk." (a) That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway.

(b) Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

(9) "Curb loading zone." A space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers or materials.

(10) "Driver." Every person who drives or is in actual physical control of a vehicle.

(11) "Freight curb loading zone." A space adjacent to a curb for the exclusive use of vehicles during the loading or unloading of freight.

(12) "Highway." The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

(13) "Intersection." (a) The area embraced within the prolongation or connection of the lateral curb lines or, if none, then the lateral boundary lines of the roadways of two (2) highways which join one another at, or approximately at, right angles, or the areas within which vehicles traveling upon different highways joining at any other angle may come in conflict.

(b) Where a highway includes two (2) roadways thirty (30) feet or more feet apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two (2) roadways thirty (30) feet or more apart, then every crossing of two (2) roadways of such highways shall be regarded as a separate intersection.

(14) "Laned roadway." A roadway which is divided into two (2) or more clearly marked lanes for vehicular traffic.

(15) "Motor vehicle." Every vehicle which is self-propelled, excluding motorized bicycles as defined in Tennessee Code Annotated, and every vehicle which is propelled by electric power obtained from overhead trolley wires.

(16) "Motorcycle." Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in

contact with the ground, but excluding a tractor or motorized bicycle, as defined in Tennessee Code Annotated.

(17) "Multi-use trail." Any path or trail, or portion thereof physically separated from a roadway designated for use by pedestrians or bicycles.

(18) "Official traffic-control devices." All signs, signals, markings and devices not inconsistent with this chapter, placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic.

(18.1) "Operator." For purposes of this title, an operator is a corporation, firm, joint venture, limited liability company, partnership, person, or other organized entity that operates a shared mobility platform, whether for profit or not for profit.

(19) "Park, parking." The standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

(20) "Passenger curb loading zone." A place adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers.

(21) "Pedestrian." Any person afoot.

(22) "Police officer." Every officer of the city police department or any officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

(23) "Private road or driveway." Every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

(24) "Railroad." A carrier of persons or property upon cars, other than streetcars, operated upon stationary rails.

(25) "Railroad train." A steam engine, electric or other motor vehicle, with or without cars coupled thereto, operated upon rails, except streetcars.

(26) "Residence district." The territory contiguous to and including a highway not comprising a business district when the property on such highway for a distance of three hundred (300) feet or more is in the main improved with residences.

(27) "Right-of-way." The privilege of the immediate use of the roadway.

(28) "Roadway." That portion of a highway improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two (2) or more separate roadways the term "roadway" as used in this section shall refer to any such roadway separately but not to all such roadways collectively.

(29) "Safety zone." The area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

(29.1) “Shared mobile device." For purposes of this title, a shared mobile device is only a bicycle or electric-assisted bicycle, designed specifically for shared-use and deployed by shared mobility operators.

(29.2) "Shared mobility." Shared mobility is a network or system of shared mobile devices, offered for rent in short time increments from unstaffed, self-service docking locations, and operated within the public right-of-way, that provides increased mobility options over short distances in urban areas.

(29.3) "Shared mobility zone." For purposes of this title, a shared mobility zone is an area generally identified between East Tennessee State University, the Veterans Administration medical complex and downtown, and identified on mapping that is managed and stored by city geographic information systems.

(30) "Stand or standing." The halting of a vehicle, whether occupied or not, otherwise than for the purpose of and while actually engaged in receiving or discharging passengers.

(31) "Stop." When required, complete cessation from movement.

(32) "Stop or stopping." When prohibited, any halting even momentarily of a vehicle, whether occupied or not, except when necessary to avoid conflict with the other traffic or in compliance with the directions of a police office or traffic-control sign or signal.

(33) "Street." The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for the purposes of vehicular travel.

(34) "Streetcar." A car other than a railroad train for transporting persons or property and operated upon rails principally within a municipality.

(35) "Through highway." Every highway or portion thereof at the entrance to which vehicular traffic from intersecting highways is required by law to stop before entering or crossing the same and when stop signs are erected as provided in this chapter.

(36) "Traffic." Pedestrians, ridden or herded animals, vehicles, streetcars and other conveyances either singly or together while using any highway for purposes of travel.

(37) "Traffic-control signal." Any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and to proceed.

(38) "Traffic division." The traffic division of the police department of this city, or in the event a traffic division is not established, then such term whenever used in this chapter shall be deemed to refer to the police department of this city.

(39) "Vehicle." Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks. (1985 Code, § 15-1, as amended by Ord. #3443, Jan. 1997, and Ord. #4686-19, Nov. 2019 ***Ch12_6-20-20***)

15-102. Enforcement. (1) It shall be the duty of the officers of the police department or such officers as are assigned by the chief of police to enforce all street traffic laws of this city and all of the state vehicle laws applicable to street traffic in this city.

(2) Officers of the police department or such officers as are assigned by the chief of police are hereby authorized to direct all traffic by voice, hand or signal in conformance with traffic laws; provided, that in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the police department may direct traffic as conditions may require notwithstanding the provisions of the traffic laws.

(3) Officers of the fire department, when at the scene of a fire may direct or assist the police in directing traffic thereat or in the immediate vicinity. (1985 Code, § 15-2)

15-103. Obedience to police and fire officials. No person shall wilfully fail or refuse to comply with any lawful order or direction of a police officer or fire department official. (1985 Code, § 15-3)

15-104. Obedience to traffic regulations--persons propelling push carts or riding animals. Every person propelling any pushcart or riding an animal upon a roadway, and every person driving any animal-drawn vehicle shall be subject to the provisions of this chapter applicable to the driver of any vehicle, except those provisions which by their very nature can have no application. (1985 Code, § 15-4)

15-105. Obedience to traffic regulations--public employees. The provisions of this chapter shall apply to the driver of any vehicle owned by or used in the service of the United States government, any state or any political subdivision thereof, and it shall be unlawful for any driver to violate any of the provisions of this chapter, except as otherwise permitted in this chapter or by state statute. (1985 Code, § 15-5)

15-106. Use of coasters, roller skates, etc. No person upon roller skates, or riding in or by means of any coaster, toy vehicle or similar device, shall go upon any roadway except while crossing a street on a crosswalk and when so crossing such person shall be granted all of the rights and shall be subject to all of the duties applicable to pedestrians. (1985 Code, § 15-6)

15-107. Authorized emergency vehicles--operation generally.

(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, but subject to the conditions herein stated.

(2) The driver of an authorized emergency vehicle may:

(a) Park or stand, irrespective of the provisions of this chapter;

(b) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;

(c) Exceed the speed limits so long as he does not endanger life or property; and

(d) Disregard regulations governing direction of movement or turning in specified directions.

(3) The exemptions herein granted to an authorized emergency vehicle shall apply only when such vehicle is making use of audible and visual signals meeting the requirements of the applicable laws of this state, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.

(4) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others. (1985 Code, § 15-7)

15-108. Authorize emergency vehicles--operation of other vehicles upon approach. (1) Upon the immediate approach of an authorized emergency vehicle making use of audible and visual signals meeting the requirements of the applicable laws of this state, or of a police vehicle properly and lawfully making use of an audible signal only, the driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to , and as close as possible to, the right-hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.

(2) This section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway. (1985 Code, § 15-8)

15-109. Following fire apparatus. The driver of any vehicle other than one on official business shall not follow any fire apparatus traveling in response to a fire alarm closer than five hundred (500) feet or drive into or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (1985 Code, § 15-9)

15-110. Crossing fire hose. No vehicle shall be driven over any unprotected hose of a fire department when laid down on any street or private driveway, to be used at any fire or alarm of fire, without the consent of the fire department official in command. (1985 Code, § 15-10)

15-111. Processions generally--driving in. Each driver in a funeral or other procession shall drive as near to the right-hand edge of the roadway as practicable and shall follow the vehicle ahead as close as is practicable and safe. (1985 Code, § 15-11)

15-112. Processions generally--permit. No funeral procession or parade containing two hundred (200) or more persons or fifty (50) or more vehicles, except the military forces of the United States, or of this state and the forces of the police and fire departments, shall occupy, march or proceed along any street except in accordance with a permit issued by the chief of police and such other regulations as are set forth in this chapter which may apply. (1985 Code, § 15-12)

15-113. Funeral processions--driving other vehicles through. 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 as required in this chapter. This provision shall not apply at intersections where traffic is controlled by traffic-control signals or police officers. (1985 Code, § 15-13)

15-114. Funeral processions--identification. A funeral composed of a procession of vehicles shall be identified as such by the display upon the outside of each vehicle of a pennant or other identifying insignia or by such other method as may be determined and designated by the traffic division. (1985 Code, § 15-14)

15-115. Driving vehicles on sidewalks. The driver of a vehicle shall not drive within any sidewalk area except at a permanent or temporary driveway. (1985 Code, § 15-15)

15-116. Backing. 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. (1985 Code, § 15-16)

15-117. Opening and closing vehicle doors. No person shall open the door of a motor vehicle on the side available to moving traffic unless and until it is reasonably safe to do so, nor shall any person leave a door open on the side of a motor vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers. (1985 Code, § 15-17)

15-118. Operation of motorcycles. A person operating a motorcycle shall ride only upon the permanent and regular seat attached thereto, and such operator shall not carry any other person nor shall any other person ride on a motorcycle unless such motorcycle is designed to carry more than one (1) person, in which event a passenger may ride upon the permanent and regular seat if designed for two (2) persons, or upon another seat firmly attached to the rear or side of the operator. (1985 Code, § 15-18)

15-119. Clinging to vehicles. No person riding upon any bicycle, coaster, roller skates, sled or toy vehicle shall attach the same or himself to any vehicle or upon a roadway. (1985 Code, § 15-19)

15-120. Entering or leaving controlled-access roadways. No person shall drive a vehicle onto or from any controlled-access roadway except at such entrances and exits as are established by public authority. (1985 Code, § 15-20)

15-121. Boarding or alighting from vehicles. No person shall board or alight from any vehicle while such vehicle is in motion. (1985 Code, § 15-21)

15-122. Manner of riding in vehicles generally. No person shall ride on any vehicle upon any portion thereof not designed or intended for the use of passengers. This provision shall not apply to an employee engaged in the necessary discharge of a duty, or to persons riding within truck bodies in space intended for merchandise. (1985 Code, § 15-22)

15-123. Driving through safety zone. No vehicle shall at any time be driven through or within a safety zone. (1985 Code, § 15-23)

15-124. Automobile races.[1] It shall be unlawful for any person to promote, sponsor or participate in any motorcycle, "hot rod" or automobile race of any kind or character within the city. This section shall not apply to what is known as "stock car" races conducted between the hours of 10:00 A.M. and 10:30 P.M., Sundays excluded, and which are conducted on a track which affords proper protection for spectators. (1985 Code, § 15-24)

15-125. Manner of loading tires. No person shall drive or move any truck or other vehicle within the city unless such vehicle is so constructed or loaded as to prevent any load, contents or litter from being blown or deposited upon any street, alley or other public place. Nor shall any person drive or move

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[1]State law reference

Automobile race tracks and drag strips: Tennessee Code Annotated, § 55-22-101, et seq.

any vehicle or truck within the city, the wheels or tires of which carry onto or deposit in any street, alley or other public place, mud, dirt, sticky substances, litter or foreign matter of any kind. (1985 Code, § 15-25)

15-126. Use of sidewalk. No person shall drive, wheel or draw any vehicle, except a child's carriage drawn by hand, or use roller skates, or permit any horse, or any cattle, swine or sheep under his care, to go upon any sidewalk, except for the purpose of crossing the same when necessary to do so, or otherwise obstruct or injure any sidewalk. (1985 Code, § 15-26)

15-127. Transporting children in back of pickup truck--exceptions. (1) Any person commits an offense who, on any City of Johnson City, Tennessee highway, street, road, alley or public right-of-way, transports a child between six (6) years of age and under twelve (12) years of age in the bed of a truck with a manufacturer's ton rating not exceeding three-quarters (3/4) ton and have a pickup body style except that:

(a) The provisions of this section do not apply to a person transporting such child in the bed of such vehicle when such vehicle is being used as part of an organized parade, procession, or other ceremonial event and when such vehicle is not exceeding the speed of twenty (20) miles per hour, and

(b) The provisions of this section do not apply when the child being transported is involved in agricultural activities.

(c) The provisions of this section do not apply when the child being transported is being transported for ambulance or similar emergency purposes.

(2) The mayor is hereby authorized to execute all necessary or proper documents to complete the transactions herein authorized, upon the terms and for the purposes stated herein, and which documents shall in form and content be satisfactory to the city manager and the city attorney. (Ord. #3711, Sept. 1999)

CHAPTER 2

ADMINISTRATION

SECTION

15-201. Records of violations. (1) The police department or the traffic division thereof shall keep a record of all violations of the traffic laws of this city or of the state vehicle laws of which any person has been charged, together with a record of the final disposition of all such alleged offenses. Such record shall be so maintained as to show all types of violations and the total of each. Such record shall be maintained complete for at least the most recent five (5) year period.

(2) All forms for records of violations and notices of violations shall be serially numbered. For each month and year a written record shall be kept available to the public showing the disposal of all such forms.

(3) All such records and reports shall be public records. (1985 Code, § 15-43)

15-202. Files on drivers. (1) The police department or the traffic division thereof shall maintain a suitable record of all traffic accidents, warnings, arrests, convictions and complaints reported for each driver, which shall be filed alphabetically under the name of the driver concerned.

(2) Such division shall study the cases of all the drivers charged with frequent or serious violations of the traffic laws or involved in frequent traffic accidents or any serious accident, and shall attempt to discover the reasons therefor, and shall take whatever steps are lawful and reasonable to prevent the same or to have the licenses of such persons suspended or revoked.

(3) Such records shall be maintained complete for at least the most recent five (5) year period. (1985 Code, § 15-44)

15-203. Impoundment of vehicles generally. (1) Members of the police department are hereby authorized to remove a vehicle from a street or highway to the nearest garage or other place of safety, or to a garage designated or maintained by the police department, or otherwise maintained by this city under the following circumstances:

(a) When any vehicle is left unattended upon any bridge, viaduct or causeway, or in any tube or tunnel where such vehicle constitutes an obstruction to traffic;

(b) When a vehicle upon a highway is so disabled as to constitute an obstruction to traffic and the person in charge of the vehicle

is by reason of physical injury incapacitated to such extent as to be unable to provide for its custody or removal; or

(c) When any vehicle is left unattended upon a street and is so parked illegally as to constitute a definite hazard or obstruction to the normal movement of traffic.

(2) Whenever an officer removes a vehicle from a street as authorized in this section and the officer knows or is able to ascertain from the registration records in the vehicle the name and address of the owner thereof, such officer shall immediately give or cause to be given notice in writing to such owner of the fact of such removal and the reasons therefor and of the place to which such vehicle has been removed. In the event any such vehicle is stored in a public garage, a copy of such notice shall be given to the proprietor of such garage.

(3) Whenever an officer removes a vehicle from a street under this section and does not know and is not able to ascertain the name of the owner, or for any other reason is unable to give the notice to the owner as provided in this section, and in the event the vehicle is not returned to the owner within a period of three (3) days, then the officer shall immediately send or cause to be sent a written report of such removal by mail to the state department of revenue, and shall file a copy of such notice with the proprietor of any public garage in which the vehicle may be stored. Such notice shall include a complete description of the vehicle, the date, time and place from which removed, the reasons for such removal and the name of the garage or place where the vehicle is stored. (1985 Code, § 15-45)

CHAPTER 3

TRAFFIC DIVISION

SECTION

15-301. Established. There may be established within the city a traffic division to be under the control of the city manager or such person as may be designated by him. (1985 Code, § 15-57)

15-302. Duties generally. It shall be the duty of the traffic division, with such aid as may be rendered by other members of the police department, to enforce the street traffic regulations of this city and all of the state vehicle laws applicable to street traffic in this city, to make arrests for traffic violations, to investigate accidents and to cooperate with the city traffic engineer and other officers of the city in the administration of the traffic laws and in developing ways and means to improve traffic conditions, and to carry out those duties specially imposed upon such division by this chapter. (1985 Code, § 15-58)

15-303. Investigation of accidents. It shall be the duty of the traffic division, assisted by other police officers of the department, to investigate traffic accidents and to arrest and assist in the prosecution of those persons charged with violations of law causing or contributing to such accidents. (1985 Code, § 15-59)

15-304. Accident studies. Whenever the accidents at any particular location become numerous, the traffic division shall cooperate with the city traffic engineer in conducting studies of such accidents and determining remedial measures. (1985 Code, § 15-60)

15-305. Traffic accident files to be maintained. The traffic division shall maintain a suitable system of filing traffic accident reports. Accident reports or cards referring to them shall be filed alphabetically by location. Such reports shall be available for the use and information of the city traffic engineer. (1985 Code, § 15-61)

15-306. Annual traffic safety report. The traffic division shall annually prepare a traffic report which shall be filed with the city manager. Such report shall contain information on the traffic matters in this city as follows:

(1) The number of traffic accidents, the number of persons killed; the number of persons injured; and the other pertinent traffic accident data;

(2) The number of traffic accidents investigated and other pertinent data on the safety activities of the police; and

(3) The plans and recommendations of the division for future traffic safety activities. (1985 Code, § 15-62)

15-307. Records of cases--complaints; citations. The city recorder shall keep or cause to be kept a record of every traffic complaint, traffic citation or other legal form of traffic charge deposited with or presented to the city court or its traffic violations bureau, and shall keep a record of every official action by such court or its traffic violations bureau in reference thereto, including but not limited to a record of every conviction, forfeiture of bail, judgment or acquittal and the amount of fine or forfeiture resulting from every such traffic complaint or citation deposited with or presented to such court or traffic violations bureau. (1985 Code, § 15-63)

15-308. Records of cases--records of convictions. (1) Within ten (10) days after the conviction or forfeiture of bail of a person upon a charge of violating any provision of this code or other law regulating the operation of vehicles on highways, the city judge shall prepare and immediately forward to the state department of safety an abstract of the record of the court covering the case in which such person was so convicted or forfeited bail, which abstract must be certified by the city judge to be true and correct. No report need be made of any conviction involving the illegal parking or standing of a vehicle.

(2) Such abstract must be made upon a form furnished by the state department of safety and shall include the name and address of the person charged; the number, if any, of his operator's or chauffeur's license; the registration number of the vehicle involved; the nature of the offense; the date of hearing; the plea, the judgment or whether bail was forfeited; and the amount of the fine or forfeiture as the case may be.

(3) Every court of record shall also forward a like report to the state department of safety upon the conviction of any person of manslaughter or other felony in the commission of which a vehicle was used.

(4) The failure, refusal or neglect of any such judicial officer to comply with any of the requirements of this section shall constitute misconduct in office and shall be grounds for removal therefrom. (1985 Code, § 15-64)

CHAPTER 4

TRAFFIC VIOLATIONS BUREAU

SECTION

15-401. Established. A traffic violations bureau is established to assist the city court with the clerical work of traffic cases. The city recorder's office shall be in charge of the bureau. (1985 Code, § 15-76)

15-402. Schedule of fines. The city judge shall designate the specified offenses under this chapter or the state traffic laws in respect to which payments of fines may be accepted by the traffic violations bureau in satisfaction thereof, and shall specify by suitable schedules the amount of such fines for first, second and subsequent offenses; provided, that such fines are within the limits declared by law, this code or other ordinance, and shall further specify the number of such offenses which shall require appearance before the court. (1985 Code, § 15-77)

15-403. Optional trial. (1) Any person charged with an offense for which payment of a fine may be made to the traffic violations bureau shall have the option of paying such fine within the time specified in the notice of arrest at the traffic violations bureau upon entering a plea of guilty and upon waiving appearance in court; or may have the option of depositing the required lawful bail, and upon a plea of not guilty shall be entitled to a trial as authorized by law.

(2) The payment of a fine to the bureau shall be deemed an acknowledgment of conviction of the alleged offense, and the bureau, upon accepting the prescribed fine, shall issue a receipt to the violator acknowledging payment thereof. (1985 Code, § 15-78)

15-404. Procedure generally. The traffic violations bureau shall follow each procedure as may be prescribed by the traffic laws of this city or as may be required by any laws of this state. (1985 Code, § 15-79)

15-405. Duties. The following duties are hereby imposed upon the traffic violations bureau in reference to traffic offenses:

(1) It shall accept designated fines, issue receipts and represent in court such violators as are permitted and desire to plead guilty, waive court appearance and give power of attorney.

(2) It shall receive and issue receipts for cash bail from the persons who shall or wish to be heard in court, enter the time of their appearance on the court docket and notify the arresting officer and witnesses, if any, to be present.

(3) It shall keep an easily accessible record of all violations of which each person has been guilty during the preceding twelve (12) months, whether such guilt was established in court or in the traffic violations bureau. (1985 Code, § 15-80)

15-406. Records. The traffic violations bureau shall keep records and submit summarized monthly reports to the city judge and the city manager of all notices issued and arrests made for violations of this chapter and other related ordinances in this city and of all the fines collected by the traffic violations bureau of the court, and of the final disposition or present status of every case of violation of the provisions of such chapter and ordinances. Such records shall be so maintained as to show all types of violations and the total of each. Such records shall be public records. (1985 Code, § 15-81)

CHAPTER 5

CITATIONS FOR TRAFFIC VIOLATIONS

SECTION

15-501. Forms; records. (1) The city police department records section shall provide traffic citation forms for notifying alleged violators to appear and answer to charges of violating this chapter and related ordinances in the city court. Such citations shall include serially numbered sets of citations in quadruplicate in the form prescribed and approved jointly by the city manager and the chief of police. Generated electronic citations shall be regulated by the department's records management system (RMS).

(2) The chief of police or his or her designee shall maintain a record of every citation book issued and shall require a written receipt for each book. (1985 Code, § 15-93, as replaced by Ord. #4169-06, May 2006)

15-502. Issuance by police. Except when authorized or directed under state law to immediately take a person before a judge or magistrate for the violation of any traffic laws, a police officer who halts a person for such violation other than for the purpose of giving him a warning or warning notice and does not take such person into custody under arrest, shall take the name, address and operator's license number of such person, the registered number of the motor vehicle involved, and such other pertinent information as may be necessary, and shall issue to the violator in writing on a form provided by the police department a traffic citation containing a notice to answer to the charge in the city court at a time at least five (5) days after such alleged violation to be specified in such citation. The officer, upon receiving the written promise or electronic signature of the alleged violator to answer as specified in the citation, shall release such person from custody. (1985 Code, § 15-94, as replaced by Ord. #4169-06, May 2006)

15-503. Disposition; records. (1) Every police officer upon issuing a traffic citation to an alleged violator of any provision of the motor vehicle laws

of this state or of any laws of this city shall deposit the original and a duplicate copy of the citation with the police records section of the city court. Electronic citations generated are automatically posted and regulated by the department's records management system (RMS).

(2) Upon the filing of such original citation in the city court, such citation may be disposed of only by trial in such court or by other official action of the court, including forfeiture of bail or by payment of a fine to the traffic violations bureau of such court.

(3) The chief of police shall also maintain or cause to be maintained in connection with every traffic citation issued by a member of the police department a record of the disposition by a member of the police department and a record of the disposition of the charge by the city court or its violations bureau.

(4) The chief of police shall also maintain or cause to be maintained a record of all warrants issued by the city court or by any other court on such traffic violation charges and which are delivered to the police department for service, and of the final disposition of all such warrants.

(5) It shall be unlawful and official misconduct for any member of the police department or other officer or public employee to dispose of, alter or deface a traffic citation or any copy thereof, or the record of the issuance or disposition of any traffic citation, complaint or warrant, in a manner other than as required in this chapter. (1985 Code, § 15-95, as replaced by Ord. #4169-06, May 2006)

15-504. Illegal cancellation of citations. It shall be unlawful for any person to cancel or solicit the cancellation of any traffic citation in any manner other than as provided by this chapter. (1985 Code, § 15-96, as replaced by Ord. #4169-06, May 2006)

15-505. Audit of records and reports. (1) Every record of traffic citations, complaints thereon, and warrants issued therefor required in this chapter shall be audited annually or as required by the city manager. Such reports shall be public records.

(2) For the purpose or this chapter, the city recorder or his or her designee shall have access at all times to all necessary records, files and papers of the city court, its traffic violations bureau and the police department. (1985 Code, § 15-97, as replaced by Ord. #4169-06, May 2006)

15-506. Failure to obey citations. It shall be unlawful for any person to violate his or her written promise to appear in court after giving such 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. (1985 Code, § 15-98, as replaced by Ord. #4169-06, May 2006)

15-507. Placing of citations on illegally parked vehicles. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code or other ordinance of this city or by state law, the officer finding such vehicle shall take its registration number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a traffic citation, on a form provided by the department for the driver to answer to the charge by paying the citation fee or appearing in city court at a time at least five (5) days after such alleged violation. (1985 Code, § 15-99, as replaced by Ord. #4169-06, May 2006)

15-508. Presumption in reference to illegal parking. (1) In any prosecution charging a violation of this chapter or any law or regulation governing the standing or parking of a vehicle, proof that the particular vehicle described in the complaint was parked in violation of any such law or regulation, together with proof that the defendant named in the complaint was at the time of such parking the registered owner of such vehicle, shall constitute in evidence a prima facie presumption that the registered owner of such vehicle was the person who parked or placed such vehicle at the point where, and for the time during which, such violation occurred.

(2) The foregoing stated presumption shall apply only when the procedure as prescribed in § 15-506 has been followed. (1985 Code, § 15-100, as replaced by Ord. #4169-06, May 2006)

15-509. Warrants. (1) In the event any person fails to comply with the traffic citation given to such person or attached to a vehicle or fails to make appearance pursuant to a summons directing an appearance in the city court or traffic violations bureau, or if any person fails or refuses to deposit bail as required and within the time permitted by law, the city judge may issue a summons for their appearance in court. A violator who fails to appear on an issued summons will be subject to a warrant arrest. (1985 Code, § 15-101, as replaced by Ord. #4169-06, May 2006)

15-510. Disposition of traffic fines and forfeitures. All fines or forfeitures collected upon conviction or upon the forfeiture of bail of any person charged with a violation of any of the provisions of this chapter shall be paid into the general fund of the city. (1985 Code, § 15-102, as replaced by Ord. #4169-06, May 2006)

CHAPTER 6

TRAFFIC ENGINEER

SECTION

15-601. Office established. The office of city traffic engineer is hereby established. (1985 Code, § 15-114)

15-602. Qualifications; appointment. The city manager, or a person designated by him, shall serve as city traffic engineer in addition to his other functions and shall exercise the powers and duties with respect to traffic as are provided in this chapter. (1985 Code, § 15-115)

15-603. Duties generally. It shall be the general duty of the city traffic engineer to determine the installation and proper timing and maintenance of traffic-control devices, to conduct engineering analyses of traffic accidents and to devise remedial measures, to conduct engineering investigation of traffic conditions, to plan the operation of traffic on the streets and highways of this city, to cooperate with other city officials in the development of ways and means to improve traffic conditions and to carry out the additional powers and duties imposed by this code or other ordinances of this city. (1985 Code, § 15-116)

15-604. Emergency and experimental regulations. (1) The chief of police, by and with the approval of the city traffic engineer, is hereby empowered to make regulations necessary to make effective the provisions of the traffic laws of this city and to make and enforce temporary or experimental regulations to cover emergencies or special conditions. No such temporary or experimental regulation shall remain in effect for more than ninety (90) days.

(2) The city traffic engineer may test traffic-control devices under actual conditions of traffic. (1985 Code, § 15-117)

CHAPTER 7

TRAFFIC-CONTROL DEVICES

SECTION

15-701. Traffic engineer to place and maintain signs, etc. The city traffic engineer shall place and maintain traffic-control signs, signals and devices when and as required under the traffic laws of this city to make effective the provisions of such laws, and may place and maintain such additional traffic-control devices as he may deem necessary to regulate traffic under the traffic laws of this city or under state law or to guide or warn traffic. (1985 Code, § 15-134)

15-702. Specifications. All traffic-control signs, signals and devices shall conform to the "Manual on Uniform Traffic Control Devices for Streets and Highways," latest edition and revisions, published by the public roads administration (bureau of public roads) of the federal government. (1985 Code, § 15-135)

15-703. Obedience. The driver of any vehicle shall obey the instructions of any official traffic-control device applicable thereto placed in accordance with the provisions of this chapter, unless otherwise directed by a traffic or police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this chapter. (1985 Code, § 15-136)

15-704. Signs required. No provision of this chapter for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular

section does not state that signs are required, such section shall be effective even though no signs are erected or in place. (1985 Code, § 15-137)

15-705. Traffic-control signals. Whenever traffic is controlled by traffic-control signals exhibiting the word "Go," "Caution" or "Stop," or exhibiting different colored lights successively one at a time, or with arrows, the following colors only shall be used and such terms and lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

(1) Green alone or "Go." (a) Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

(b) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(2) Steady yellow alone. (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 cross the intersection when the red or "Stop" signal is exhibited.

(b) Pedestrians facing such signal are thereby advised that there is insufficient time to cross the road way, and any pedestrian then starting to cross shall yield the right-of-way to all vehicles.

(3) Steady red alone, or "Stop." (a) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or "Go" is shown alone. Provided, however, that a right turn on a red signal shall be permitted, provided that the prospective turning car comes to a full and complete stop before turning and that the turning car yields the right-of-way to pedestrians and cross traffic traveling in accordance with their traffic signal. However, said turn will not endanger other traffic lawfully using said intersection. A right turn on red shall be permitted at all intersections except that clearly marked by a "No Turns On Red" sign, which may be erected by the city at intersections which require no right turns on red in the interest of traffic safety.

(b) No pedestrian facing such signal shall enter the roadway unless he can do so safely and without interfering with any vehicular traffic.

(c) A left turn on a red stop signal may be permitted by the city at intersections where a one-way street intersects with another one-way street moving in the same direction into which the left turn would be made from the original one-way street. Before making such a turn, the prospective turning car shall come to a full and complete stop and shall

yield the right-of-way to pedestrians and cross traffic traveling in accordance with the traffic signal so as not to endanger traffic lawfully using the intersection. The city may erect signs permitting such turns at any applicable intersection where such turns would be safe. Unless such signs are erected, left turns on red are prohibited.

(4) Red with green arrow. (a) Vehicular traffic facing such signal may cautiously enter the intersection only to make the movement indicated by such arrow but shall yield the right-of-way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection.

(b) No pedestrian facing such signal shall enter the roadway unless he can do so safely and without interfering with any vehicular traffic.

(5) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made at the signal. (1985 Code, § 15-138)

15-706. Pedestrian-control signals. Whenever special pedestrian-control signals exhibiting the words "Walk" or "Wait" or "Don't Walk" are in place such signals shall indicate as follows:

(1) Walk. Pedestrians facing such signals 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 a sidewalk or safety zone while the "Wait" or "Don't Walk" signal is showing. (1985 Code, § 15-139)

15-707. Flashing signals. (1) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal it shall require obedience by vehicular traffic as follows:

(a) Flashing red (stop signal). When a red lens is illuminated with rapid intermittent flashes, and said light is clearly visible for a sufficient distance ahead to permit such stopping, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or, if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(b) Flashing yellow (caution signal). When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

(c) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules as set forth in § 15-1201. (1985 Code, § 15-140)

15-708. Display of unauthorized signs, signals, etc. (1) No person shall place, maintain or display upon or in view of any highway any unauthorized sign, signal, marking or device which purports to be or is in an imitation of or resembles an official traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official traffic-control device or any railroad sign or signal.

(2) No person shall place or maintain nor shall any public authority permit upon any highway any traffic sign or signal bearing thereon any commercial advertising.

(3) This section shall not be deemed to prohibit the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for official signs.

(4) Every such prohibited sign, signal or marking is hereby declared to be a public nuisance and the city traffic engineer is hereby empowered to remove the same or cause it to be removed without notice. (1985 Code, § 15-141)

15-709. Interference with official devices, railroad signs, etc. No person shall, without lawful authority, attempt to or in fact alter, deface, injure, knock down or remove any official traffic-control device or any railroad sign or signal or any inscription, shield or insignia thereon, or any other part thereof. (1985 Code, § 15-142)

15-710. Traffic lanes. (1) The city traffic engineer is hereby authorized to mark traffic lanes upon the roadway of any street or highway where a regular alignment of traffic is necessary.

(2) Where such traffic lanes have been marked, it shall be unlawful for the operator of any vehicle to fail or refuse to keep such vehicles within the boundaries of any such lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement. (1985 Code, § 15-143)

15-711. Loads on vehicles. When signs are erected on certain streets giving notice hereof, no person shall operate any vehicle with a gross weight in excess of the posted gross weight limit at any time upon such streets. (1985 Code, § 15-144)

15-712. Commercial vehicles on certain streets. When signs are erected on certain streets giving notice hereof, no person shall operate any commercial vehicle exceeding the posted gross weight limit at any time upon such streets; except, that such vehicles may be operated thereon for the purpose

of delivering or picking up materials or merchandise and then only by entering such street at the intersection nearest the destination of the vehicle and proceeding therefrom no farther than the nearest intersection thereafter. (1985 Code, § 15-145)

15-713. Restrictions on certain streets as to certain vehicles.

(1) The city traffic engineer is hereby authorized to determine and designate is hereby authorized to determine and designate those heavily traveled streets upon which shall be prohibited the use of the roadway by motor-driven cycles, bicycles, horse-drawn vehicles or other nonmotorized traffic and shall erect appropriate signs giving notice thereof.

(2) When signs are so erected giving notice thereof, no person shall disobey the restrictions stated on such signs. (1985 Code, § 15-146)

15-714. Gross weight limits. The city traffic engineer is authorized to determine and designate where necessary the gross weight limit allowed upon any street or parts of streets. (1985 Code, § 15-147)

CHAPTER 8

SPEED

SECTION

15-801. Miscellaneous. It shall be unlawful for any person to operate or drive a motor vehicle upon any highway or street of this city in excess of thirty (30) miles per hour; provided, however, that the city manager may in his discretion authorize a greater maximum speed upon certain streets, and when so authorized and properly designated by signs giving notice of such greater lawful speed limits, such greater speed limit shall apply on such streets. (1985 Code, § 15-164)

15-802. 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 through street or on one regulated by traffic-control signals or signs which stop or require traffic to yield on the intersecting streets. (1985 Code, § 15-165)

15-803. In school zones and near playgrounds. It shall be unlawful for any person to operate or drive a motor vehicle through any school zone or near any playground in this city in excess of fifteen (15) miles per hour when official signs indicating such speed limits have been posted by the traffic engineer. The provisions of this section are applicable to school zones where there are no playgrounds only when the children are out for recess or when the children are going to or leaving school during its opening or closing hours. (1985 Code, § 15-166)

15-804. 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 fifteen (15) miles per hour when official signs indicating such speed limit have been posted by the traffic engineer. (1985 Code, § 15-167)

15-805. Traffic signals. The city traffic engineer is authorized to regulate the timing of traffic signals so as to permit the movement of traffic in an orderly and safe manner at speeds slightly at variance from the speeds otherwise applicable within the district or at intersections and shall erect appropriate signs giving notice thereof. (1985 Code, § 15-168)

CHAPTER 9

TURNING, ETC., MOVEMENTS

SECTION

15-901. Required position and method of turning at intersection. The driver of a vehicle intending to turn at an intersection shall do so as follows:

(1) Right turns. Both the approach for a right turn and a right hand turn shall be made as close as practicable to the right-hand curb or edge of the roadway.

(2) 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 such centerline where it enters the intersection and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the centerline of the roadway being entered. Whenever practicable the left turn shall be made in that portion of the intersection to the left of the center of the intersection.

(3) Left turns on other than two-way roadways. At any intersection where traffic is restricted to one (1) direction on one (1) or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection, as nearly as practicable, in the left-hand lane lawfully available to traffic moving in such direction upon the roadway being entered. (1985 Code, § 15-185)

15-902. Turning markers, signs, etc., indicating course of travel.

(1) The city traffic engineer is authorized to place markers, buttons or signs within or adjacent to intersections indicating the course to be traveled by vehicles turning at such intersections, and such course to be traveled as so indicated may conform to or be other than as prescribed by law or this code or other ordinance.

(2) When authorized markers, buttons or other indications are placed within an intersection indicating the course to be traveled by vehicles turning thereat, no driver of a vehicle shall disobey the directions of such indications. (1985 Code, § 15-186)

15-903. Restricted turn signs. (1) The city traffic engineer is hereby authorized to determine those intersections at which drivers of vehicles shall not make a right or left turn, and shall place proper signs at such intersections. The making of such turns may be prohibited between certain hours of any day and permitted at other hours, in which event the same shall be plainly indicated on the signs or they may be removed when such turns are permitted.

(2) Whenever authorized signs are erected indicating that no right or left turn is permitted, no driver of a vehicle shall disobey the directions of any such sign. (1985 Code, § 15-187)

15-904. U-turns. The driver of any vehicle shall not turn such vehicle so as to proceed in the opposite direction upon any street in a business district and shall not upon any other street so turn a vehicle unless such movement can be made in safety and without interfering with other traffic. (1985 Code, § 15-188)

CHAPTER 10

ONE-WAY STREETS AND ALLEYS

SECTION

15-1001. Signs; placement; maintenance. Whenever this code or any ordinance of this city designates any one-way street or alley, the city traffic engineer shall place and maintain signs giving notice thereof, and no such regulation shall be effective unless signs are in place. Signs indicating the direction of lawful traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited. (1985 Code, § 15-205)

15-1002. Restriction of direction of movement. (1) The city traffic engineer is hereby authorized to determine and designate streets, parts of streets or specific lanes thereon upon which vehicular traffic shall proceed in one direction during one period and the opposite direction during another period of the day and shall place and maintain appropriate markings, signs, barriers or other devices to give notice thereof. The city traffic engineer may erect signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of the centerline of the roadway.

(2) It shall be unlawful for any person to operate any vehicle in violation of such markings, signs, barriers or other devices so placed in accordance with this section. (1985 Code, § 15-206)

CHAPTER 11

STOPPING, STANDING AND PARKING

SECTION

15-1101. Applicability. The provisions of this chapter prohibiting the standing or parking of a vehicle shall apply at all times or at those times herein specified or as indicated in official signs except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic control device. (1985 Code, § 15-223)

15-1102. Location of standing and parking places, etc. The city manager may locate standing and parking places for vehicles, and the manner of parking in such places as will not interfere with traffic, and any violation of such rules and regulations of the city manager shall be deemed a violation of this chapter. (1985 Code, § 15-224)

15-1103. Angle parking generally. (1) The city traffic engineer shall determine upon what streets angle parking shall be permitted and shall mark

or sign such streets but such angle parking shall not be indicated upon any federal aid or state highway within this city unless the state department of transportation has determined that the roadway is of sufficient width to permit angle parking without interfering with the free movement of traffic.

(2) Angle parking shall not be indicated or permitted at any place where passing traffic would thereby be caused or required to drive upon the left side of the street.

(3) On those streets which have been signed or marked by the city traffic engineer for angle parking, no person shall park or stand a vehicle other than at the angle to the curb or edge of the roadway indicated by such signs or markings. (1985 Code, § 15-225)

15-1104. Prohibited in specific places. (1) No person shall stop, stand or park a vehicle, except when necessary to avoid conflict with the other traffic or in compliance with law or the directions of a police officer or traffic-control device, in any of the following places:

(a) On a sidewalk;

(b) In front of a public or private driveway;

(c) Within an intersection;

(d) Within eight (8) feet of a fire hydrant;

(e) On a crosswalk;

(f) Within twenty (20) feet of a crosswalk at an intersection;

(g) Within thirty (30) feet upon the approach to any flashing beacon, stop sign or traffic-control signal located at the side of a roadway;

(h) Between a safety zone and the adjacent curb or within thirty (30) feet of points on the curb immediately opposite the ends of a safety zone, unless the city traffic engineer indicates a different length by signs or markings;

(i) Within twenty-five (25) feet of the nearest rail of a railroad crossing;

(j) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;

(k) On the roadway side of any vehicle stopped or parked at the end or curb of a street;

(l) Upon any bridge or other elevated structure upon a highway or within a highway tunnel;

(m) At any place where official signs prohibit stopping;

(n) Upon any median strip or dividing strip between curbs and sidewalks (commonly known as parkways);

(o) In a parking space clearly identified by an official sign as being reserved for the physically handicapped, unless, however, the person driving the vehicle is a physically handicapped person. A vehicle parking in such a space shall display a certificate of identification issued as set forth in Tennessee Code Annotated, § 55-8-160(e) or a disabled

veteran's license plate issued under Tennessee Code Annotated, § 55-4-209. A person who parks a vehicle in violation of this subsection shall be subject to a fine of not more than twenty-five dollars ($25.00) for a first offense and shall be subject to a fine of fifty dollars ($50.00) for each subsequent offense.

(p) On a bicycle lane;

(q) On a bikeway or multi-use trail.

(2) No person shall move a vehicle not lawfully under his control into any such prohibited area or away from a curb such distance as is unlawful.

(3) The provisions of this section shall not apply to the driver of any vehicle which is disabled while on the paved or improved or main traveled portion of a road, street or highway in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving such vehicle in such position. (Ord. #3443, Jan. 1997)

15-1105. Standing or parking close to curb. Except as otherwise provided in this chapter, every vehicle stopped or parked upon a roadway where there are adjacent curbs shall be so stopped or parked with the right-hand wheels of such vehicle parallel to and within eighteen (18) inches of the right-hand curb. (1985 Code, § 15-227)

15-1106. Obstructing traffic. No person shall park any vehicle upon a street, other than an alley, in such a manner or under such conditions as to leave available less than ten (10) feet of the width of the roadway for the free movement of vehicular traffic. (1985 Code, § 15-228)

15-1107. Parking in alleys. No person shall park a vehicle within an alley in such a manner or under such conditions as to leave available less than ten (10) feet of the width of the roadway for the free movement of vehicular traffic, and no person shall stop, stand or park a vehicle within an alley in such position as to block the driveway entrance to any abutting property. (1985 Code, § 15-229)

15-1108. Parking vehicles for sale, repair, etc. No person shall park a vehicle upon a street for the principal purpose of :

(1) Displaying such vehicle for sale; or

(2) Washing, greasing or repairing such vehicle except in the case of repairs necessitated by an emergency. (1985 Code, § 15-230)

15-1109. Parking adjacent to schools. (1) The city traffic engineer is hereby authorized to erect signs indicating no parking upon either or both sides of any street adjacent to any school property when such parking would, in his opinion, interfere with traffic or create a hazardous situation.

(2) When official signs are erected indicating no parking upon either side of a street adjacent to any school property as authorized herein, no person shall park a vehicle in any such designated place. (1985 Code, § 15-231)

15-1110. Parking prohibited on certain streets generally.

(1) The city traffic engineer is hereby authorized to erect signs indicating no parking upon any street when the width of the roadway does not exceed twenty (20) feet, or upon any street when deemed necessary to expedite the movement of traffic.

(2) When official signs prohibiting parking are erected upon narrow streets as authorized in this section, no person shall park a vehicle upon any such street in violation of any such sign. (1985 Code, § 15-232)

15-1111. One-way roadways. In the event a highway includes two (2) or more separate roadways and traffic is restricted to one (1) direction upon any such roadway, no person shall stand or park a vehicle upon the left-hand side of such one-way roadway unless signs are erected to permit such standing or parking. The city traffic engineer is authorized to determine when standing or parking may be permitted upon the left-hand side of any such one-way roadway and to erect signs giving notice thereof. (1985 Code, § 15-233)

15-1112. Hazardous or congested places. (1) The city traffic engineer is hereby authorized to determine and designate, by proper signs, places in which the stopping, standing or parking of vehicles would create an especially hazardous condition or would cause unusual delay to traffic.

(2) When official signs are erected at hazardous or congested places as authorized, no person shall stop, stand or park a vehicle in any such designated place. (1985 Code, § 15-234)

15-1113. Curb loading zones--designation. The city traffic engineer is hereby authorized to determine the location of passenger and freight curb loading zones and shall place and maintain appropriate signs indicating the same and stating the hours during which the provisions of this section are applicable. (1985 Code, § 15-235)

15-1114. Curb loading zones--standing. No person shall stop, stand or park a vehicle for any purpose or period of time, other than for the expeditious loading or unloading of passengers, in any place marked as a passenger curb loading zone, during the hours when the regulations applicable to such curb loading zone are effective, and then only for a period not to exceed three (3) minutes. (1985 Code, § 15-236)

15-1115. Standing vehicles in freight curb loading zone.

(1) No person shall stop, stand or park a vehicle for any purpose or length of time other than for the expeditious unloading and delivery or pickup and loading of materials in any place marked as a freight curb loading zone during the hours when the provisions applicable to such zones are in effect. In no case shall the stop for loading and unloading of materials exceed thirty (30) minutes.

(2) The driver of a passenger vehicle may stop temporarily at a place marked as a freight curb loading zone for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with any motor vehicle used for the transportation of materials which is waiting to enter or about to enter such zone. (1985 Code, § 15-237)

15-1116. Designation of public carrier stops and stands. The city traffic engineer shall establish bus stops, bus stands, taxicab stands and stands for other passenger common-carrier motor vehicles on such public streets in such places and in such number as he shall determine to be of the greatest benefit and convenience to the public, and every such bus stop, bus stand, taxicab stand or other stand shall be designated by appropriate signs. (1985 Code, § 15-238)

15-1117. Buses. (1) The operator of a bus shall not stand or park such vehicle upon any street at any place other than a bus stand so designated as provided in this chapter.

(2) The operator of a bus shall not stop such vehicle upon any street at any place for the purpose of loading or unloading passengers or their baggage other than at a bus stop, bus stand or passenger loading zone so designated in as provided in this section, except in the case of emergency.

(3) The operator of a bus shall enter a bus stop, bus stand or passenger loading zone on a public street in such a manner that the bus, when stopped to load or unload passengers or baggage, shall be in a position with the right front wheel of such vehicle not further than eighteen (18) inches from the curb and the bus approximately parallel to the curb so as not to unduly impede the movement of other vehicular traffic. (1985 Code, § 15-239)

15-1118. Taxicabs. The operator of a taxicab shall not stand or park such vehicle upon any street at any place other than in a taxicab stand so designated as provided in this section. The provision shall not prevent the operator of a taxicab from temporarily stopping in accordance with other stopping or parking regulations at any place for the purpose of and while actually engaged in the expeditious loading or unloading of passengers. (1985 Code, § 15-240)

15-1119. Parking vehicles other than buses and taxicabs. No person shall stop, stand or park a vehicle other than a bus in a bus stop or other than a taxicab in a taxicab stand when any such stop or stand has been officially designated and appropriately signed, except that the driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with any bus or taxicab waiting to enter or about to enter such zone. (1985 Code, § 15-241)

15-1120. Signs--required. Whenever by this code or any other ordinance of this city any parking time limit is imposed or parking is prohibited on designated streets, it shall be the duty of the city traffic engineer to erect appropriate signs giving notice thereof and no such regulations shall be effective unless such signs are erected and in place at the time of any alleged offense. (1985 Code, § 15-242)

15-1121. Signs--duty to obey. (1) No person shall stop, stand or park a vehicle in violation of any official sign lawfully placed or erected.

(2) The provisions of this chapter imposing a time limit on parking shall not relieve any person from the duty to observe other and more restrictive provisions prohibiting or limiting the stopping, standing or parking of vehicles in specified places or at specified times. (1985 Code, § 15-243)

15-1122. Impoundment of vehicles. Any vehicle of any kind which shall be parked in any zone designated as a no-parking zone, and marked as required by this chapter, shall be towed to the city garage and there held until the owner thereof shall present satisfactory evidence that he has paid the required fine and the cost of towing such vehicle from the no-parking zone to the city garage. (1985 Code, § 15-244)

15-1123. Parking vehicles on city streets; restrictions.

(1) Parking of motorized equipment or vehicles on city streets. (a) No truck or bus or recreational vehicle having a declared maximum gross weight, including vehicle and load, of more than eight thousand (8,000) pounds, or vehicles that exceed eight feet (8') in height at any point, or vehicles that exceed twenty feet (20') in length (attached trailers being considered part of the length of the vehicle), shall be parked or left unattended on any public street for a period of time longer than two (2) hours consecutively, except while being actively loaded or unloaded, or while such a vehicle is being used in connection with any work or service being performed within the immediate area.

(b) No vehicle of any type being used for the purpose of transporting any volatile, toxic, gaseous, explosive or flammable material shall be parked or left unattended on any public street or public right-of-

way for any period of time, except while being actively loaded or unloaded, or while such vehicle is being used in connection with any work or service being performed within the immediate area.

(c) Each day on which such violation continues shall constitute a separate offense.

(2) Parking of nonmotorized equipment or vehicles on city streets.

(a) It shall be unlawful for any person to park, or knowingly permit to be parked, any nonmotorized vehicle or equipment such as, but limited to, campers, trailers, boats, or other recreational type equipment on any public street in the city for a period of time longer than eight (8) hours consecutively.

(b) Each nonmotorized vehicle or equipment may be removed by the police department.

(c) Each day on which such violation continues shall constitute a separate offense.

(3) Storage of property on public streets and rights-of-way. (a) It shall be unlawful for any person to use a public street right-of-way along the street, for the purpose of storing any item, except where otherwise lawfully provided.

(b) Storage is defined for the purposes of this section as the placing of any property in the public street right-of-way in such a manner as to preclude the use of the street or right-of-way by the general public or the normal flow of vehicular or pedestrian traffic.

(c) Each day on which such violation continues shall constitute a separate offense.

(4) Pursuant to the general penalty as found in § 1-104 of the Code of the City of Johnson City, Tennessee, a violation of the provisions of this section shall be punished by a fine of not more than fifty dollars ($50.00) for each separate violation. Each day any violation of the provisions of this section shall continue shall constitute a separate offense. (as added by Ord. #4497-13, Aug. 2013)

15-1124. Immobilization and removal of vehicles with three or more adjudicated, due, and unsatisfied parking tickets. (1) The city is authorized to cause any motor vehicle on the public highways, public streets, public parking lots, or other public grounds against which there are three (3) or more adjudicated, due and unsatisfied parking tickets to be either immobilized or removed from the place it is found at the expense of the owner, driver, or operator. The removal or immobilization of the vehicle shall be by or under the direction of an officer or employee of the city's police department. The city may also remove an immobilized vehicle after three (3) calendar days, unless exigent circumstances exist such as parking in a loading zone, fire lane, handicap parking space, blocking a driveway or access to property, or interfering with traffic, in which case the city may remove an immobilized vehicle immediately.

(2) The owner, driver, or operator shall be obligated to pay any immobilization fee or removal charges for removing/immobilizing the vehicle and any storage charges, before the person immobilizing, removing, or storing such vehicle shall be required to surrender possession of the vehicle to the owner, driver, or operator. Additionally, the person seeking return of the vehicle shall be required to pay all outstanding parking tickets on the vehicle before the vehicle is released.

(3) No person, firm, or other legal entity that immobilizes, removes, or stores any vehicle pursuant to this section shall release the vehicle prior to verification that all adjudicated, due, and unsatisfied parking tickets have been paid.

(4) When a vehicle is immobilized pursuant to this section, there shall be placed on the vehicle in a conspicuous manner a notice warning that the vehicle has been immobilized and that any attempt to move the vehicle might damage it.

(5) Any person who believes that his or her vehicle was immobilized or removed improperly may request and shall promptly receive a hearing regarding the immobilization/removal of the vehicle before the city judge; immobilization/removal hearings shall be held within four (4) business days of the request. The request for hearing shall be made with the municipal court clerk within five (5) calendar days of the immobilization or removal of the vehicle or shall thereafter be barred. At the immobilization/removal hearing, after consideration of the evidence, the judge shall determine whether the immobilization and/or removal was valid. Where it has been established that the immobilization and/or removal was valid, the judge shall uphold and affirm the immobilization/removal and order the payment of all unsatisfied parking tickets, expenses, fees, immobilization and/or removal costs, and court costs (including the costs of the immobilization/removal hearing). Where it has been established that the immobilization and/or removal was invalid, the judge shall order the release of an immobilized/removed vehicle and the refund of the immobilization/removal fees. Any person who fails to appear at the time and place set for the immobilization/removal hearing shall be deemed to have conceded the validity of the immobilization and/or removal of the vehicle.

(6) Notwithstanding anything to the contrary in any section of this title, it shall be conclusively presumed for each adjudicated, due, and unsatisfied parking ticket that the person or persons to whom a vehicle registration plate was issued was or were the individual or individuals responsible for incurring the parking violations and resulting liability or fine, unless the person requesting the immobilization/removal hearing proves that the vehicle was used without express or implied authority during each parking violation for which there is an adjudicated, due, and unsatisfied parking ticket. (as added by Ord. #4589-15, Oct. 2015)

CHAPTER 12

SPECIAL STOPS

SECTION

15-1201. Signals indicating approach of train. (1) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of such vehicle shall stop within fifty (50) feet but not less than fifteen (15) feet from the nearest rail of such railroad, and shall not proceed until he can do so safely. The foregoing requirements shall apply when:

(a) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;

(b) A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train;

(c) A railroad train approaching within approximately one thousand five hundred (1,500) feet of the highway crossing emits a signal audible from such distance and such railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard; or

(d) An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.

(2) No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed. (1985 Code, § 15-256)

15-1202. Stop or yield signs--authorized; maintenance. The city traffic engineer is hereby authorized to determine and designate intersections where particular hazards exist and to determine:

(1) Whether vehicles shall stop at one (1) or more entrances to any such intersections, in which event he shall cause to be erected a stop sign at every such place where a stop is required; or

(2) Whether vehicles shall yield the right-of-way to vehicles on a different street at such intersection as prescribed in § 15-1204 in which event

he shall cause to be erected a yield sign at every place where obedience thereto is required. (1985 Code, § 15-257)

15-1203. Stop or yield signs--description; placement. (1) Every stop sign shall bear the word "Stop" in letters not less than eight (8) inches in height. Every yield sign shall bear the word "Yield" in letters not less than seven (7) inches in height.

(2) Every stop sign and every yield sign shall be erected as near as practicable to the nearest line of the crosswalk on the near side of the intersection or, if there is no crosswalk, then as near as practicable to the nearest line of the intersecting roadway. (1985 Code, § 15-258)

15-1204. Vehicles entering stop or yield intersections.

(1) Stop intersection. Except when directed to proceed by a police officer or traffic-control signal, every driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop before entering the crosswalk on the near side of the intersection, or in the event there is no crosswalk, shall stop at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection. Such driver after having stopped shall yield the right-of-way to any vehicle which has entered the intersection from another highway or which is approaching so closely on such highway as to constitute an immediate hazard, but such driver having so yielded may proceed and the drivers of all other vehicles approaching the intersection shall yield the right-of-way to the vehicle proceeding.

(2) Yield intersection. The driver of a vehicle approaching a yield sign shall in obedience to such sign slow down to a speed reasonable for the existing conditions, or shall stop if necessary, and shall yield the right-of-way to any pedestrians legally crossing the roadway on which he is driving, and to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard. Such driver having so yielded may proceed, and the drivers of all other vehicles approaching the intersection shall yield to the vehicle so proceeding; provided, however, that a driver who enters a yield intersection without stopping and has or causes a collision with a pedestrian in a crosswalk or a vehicle in the intersection shall prima facie be considered not to have yielded as required by this section. The foregoing shall not relieve the drivers of other vehicles approaching the intersection at such distance as not to constitute an immediate hazard from the duty to drive with due care to avoid a collision. The driver of a vehicle approaching a yield sign if required for safety to stop shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driveway has a view of approaching traffic on the intersecting roadway. (1985 Code, § 15-259)

15-1205. Emerging from alley, driveway or building. The driver of a vehicle within a business or residence district emerging from an alley, driveway or building shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across any alleyway or driveway, and shall yield the right-of-way to any pedestrian as may be necessary to avoid collision, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on such roadway. (1985 Code, § 15-260)

15-1206. Blocking intersections or crosswalks. No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic-control signal indication to proceed. (1985 Code, § 15-261)

15-1207. Permit for special stops for loading, etc. (1) The city traffic engineer is authorized to issue special permits to permit the backing of a vehicle to the curb for the purpose of loading or unloading merchandise or materials subject to the terms and conditions of such permit. Such permits may be issued either to the owner or lessee of real property or to the owner of the vehicle and shall grant to such person the privilege as therein stated and authorized.

(2) It shall be unlawful for any permitted or other person to violate any of the special terms or conditions of any such permit. (1985 Code, § 15-262)

15-1208. Lights on parked vehicles. (1) Whenever a vehicle is lawfully parked upon a street or highway during the hours between a half hour after sunset and a half hour before sunrise and in the event there is sufficient light to reveal any person or object within a distance of five hundred (500) feet upon such street or highway no lights need to be displayed upon such parked vehicle.

(2) Whenever a vehicle is parked or stopped upon a roadway or shoulder adjacent thereto, whether attended or unattended, during the hours between a half hour after sunset and a half hour before sunrise and there is not sufficient light to reveal any person or object within a distance of five hundred (500) feet upon such highway, such vehicle so parked or stopped shall be equipped with one (1) or more lamps meeting the following requirements: At least one (1) lamp shall display a white or amber light visible from a distance of five hundred (500) feet to the front of the vehicle, and the same lamp or at least one (1) other lamp shall display a red light visible from a distance of five hundred (500) feet to the rear of the vehicle, and the location of such lamp shall always be such that at least one (1) lamp or combination of lamps meeting the requirements of this section is installed as near as practicable to the side of the

vehicle which is closest to passing traffic. The foregoing provisions shall not apply to a motor-driven cycle.

(3) Any lighted head lamps upon a parked vehicle shall be depressed or dimmed. (1985 Code, § 15-263)

CHAPTER 13

PARKING METERS

SECTION

15-1301. Applicability. The provisions of this chapter as to the placing of coins in parking meters shall not apply on Sundays nor on the following holidays: January first, July fourth, Labor Day, Thanksgiving Day and Christmas Day. (1985 Code, § 15-275)

15-1302. General authority of city manager. The city manager shall be authorized to provide for the installation, regulation, maintenance, control, operation and use of parking meters on any street or part of a street where parking is limited as to time by this chapter or any other chapter of this code now or hereafter in force and where, in his opinion, the use of such parking meters would tend to reduce overparking in violation of this code. (1985 Code, § 15-276)

15-1303. Designation of parking spaces. The city manager shall cause lines or marks to be painted on the streets or curbs about or along side of the parking meters to designate the parking space for which such meter is to be used. Every vehicle parking along side of or next to any parking meter shall park within the lines so marked or established. It shall be unlawful to park any vehicle in such a way that the same shall not be within the area so designated by such lines or markings, unless such vehicle is too long to be confined in one (1) such space. (1985 Code, § 15-277)

15-1304. Installation, regulation, etc., of meters; specifications generally. The parking meters shall be installed upon the curb next to individual parking spaces and shall be at all times maintained so that such meters shall display a signal showing legal parking upon deposit therein of a proper coin of the United States in conformity with the requirements of this chapter, such signal to remain in evidence until expiration of such parking

period at which time it will indicate by automatic operation of a visible signal that the lawful period has expired. (1985 Code, § 15-278)

15-1305. Operation of meters. Whenever any vehicle shall be parked next to a parking meter on any day, Monday through Saturday, except on the holidays enumerated in § 15-1301, between the hours of 8:00 A.M. and 6:00 P.M., the owner or operator of such vehicle shall park within the area designated by the curb and street marking lines as indicated for parallel or diagonal parking, and upon entering such parking space shall immediately deposit in such parking meter one (1) or more five-cent ($.05) coins, ten-cent ($.10) coins or twenty-five-cent ($.25) coins of the United States, depending upon the length of time such vehicle shall be parked and shall put the meter into operation; provided, that such owner or operator may use any unexpired time remaining on the meter from its previous use without depositing a coin therein; and provided further, that no vehicle shall be parked for longer than the period prescribed by this chapter. Each five-cent ($.05) coin will permit the vehicle to be parked for a period of twelve (12) minutes, each ten-cent ($.10) coin for a period of twenty-four (24) minutes and each twenty-five-cent ($.25) coin for a period of one (1) hour. (1985 Code, § 15-279)

15-1306. Prohibited acts. (1) It shall be unlawful during the hours from 8:00 A.M. to 6:00 P.M., Mondays through Saturdays, except the holidays enumerated in § 15-1301, to permit a vehicle to remain parked in a designated parking space while the parking meter for such space indicates that such vehicle is illegally parked, whether such indication is the result of the failure to deposit a coin and operate lever or other actuating device of the meter, or the result of the automatic operation of the meter following the expiration of the authorized parking time subsequent to depositing a coin therein at the time such vehicle was parked. The fact that a vehicle is parking in a metered parking space during the hours of limited parking without the meter time signal showing permitted parking, shall be prima facie evidence that the vehicle has been parked at such space longer than the lawful permitted parking period. It shall be unlawful for any person to cause or permit any vehicle registered in his name to be unlawfully parked as set out in this section.

(2) It shall be unlawful for any person to deposit or cause to be deposited in any parking meter any coin for the purpose of obtaining an extension of indicated parking time beyond the maximum limit prescribed by this chapter for parking of vehicles by such meter.

(3) It shall be unlawful to deposit or cause to be deposited in any parking meter any slug, device or other substitutes for a coin of the United States.

(4) It shall be unlawful for any person to deface, injure, tamper with, open, break or destroy any parking meter or otherwise to wilfully impair its usefulness.

(5) Any person who shall violate or assist in the violation of subsections (3) or (4) of this section shall, upon conviction thereof, be fined fifty dollars ($50.00) and also in the discretion of the city judge sitting as a magistrate, may be bound over to the grand jury of the county for such violation of state laws as may be involved. (1985 Code, § 15-280)

15-1307. Placing coins in meters while loading or unloading. The placing of coins in meters shall not be required of the owner or operator of any vehicle while actually engaged in loading or unloading of persons therefrom; provided, that the parking for such purpose is restricted to such length of time as is absolutely necessary therefor. (1985 Code, § 15-281)

15-1308. Use of funds. The coins required to be deposited in parking meters are hereby levied as a police regulation and inspection fee to cover the costs of providing parking spaces, parking meters and installation and maintenance thereof; the cost of regulation, inspection, operation, control and use of the parking meter spaces and zones created therein; for the regulation and control of traffic moving in and out of parking spaces and zones so created; and for the cost of any resultant traffic administration expense. (1985 Code, § 15-282)

15-1309. Reports of violations. It shall be the duty of the police officers of the city acting in accordance with instructions issued by the city manager, to report:

(1) The number of each parking meter which indicates that the vehicle occupying the parking space adjacent to such parking meter is or has been parked in violation of any of the provisions of this chapter;

(2) The state license number and city identification tag number, if any, of such vehicle;

(3) The time during which such vehicle is parked in violation of any of the provisions of this chapter; and

(4) Any other fact, a knowledge of which is necessary for a thorough understanding of the circumstances attending such violation.

Each police officer shall also attach to such vehicle a notice to the owner or operator thereof that such vehicle has been parked in violation of a provision of this chapter and instructing such owner or operator to report to the police headquarters of the city, in regard to such violation. Each such owner or operator may, within twenty-four (24) hours of the time when such notice was attached to such vehicle, pay to the police desk sergeant on duty at police headquarters, or to the city recorder at his office in the municipal building as a penalty for and in full satisfaction of each violation, the sum of one dollar ($1.00). The failure of such owner or operator to make such payment within twenty-four (24) hours shall render such owner or operator subject to the

penalties provided for violation of the lawful parking provisions of this code. (1985 Code, § 15-283)

15-1310. Designation of loading zones, etc. This chapter shall in no wise be construed or considered as in any way limiting or affecting the right of the city manager to designate proper loading and unloading zones in the city. (1985 Code, § 15-284)

CHAPTER 14

ABANDONED, JUNKED OR WRECKED VEHICLES

SECTION

15-1401. Definitions. For the purposes of this chapter, the following words and terms shall have the designated meaning unless it is clear from the text that a different meaning is intended:

(1) "Abandoned vehicle." Any motor vehicle whose last registered owner of record has relinquished all further dominion and control, or any vehicle which is wrecked or partially dismantled or inoperable for a period of ten (10) days. There shall be a presumption that the last registered owner thereof has abandoned such vehicle, regardless of whether the physical possession of such vehicle remains in the technical custody or control of such owner, if it has remained inoperable or partially dismantled, or if the owner has relinquished dominion or control of such vehicle, for ten (10) days.

(2) "Manager." The city manager or his duly authorized representative.

(3) "Property." Any real property within the city which is not an improved street or highway.

(4) "Vehicle." A machine propelled by power other than human power designed to travel along the ground by use of wheels, treads or slides and transports persons or property or pulls machinery and shall include, without limitation, automobiles, trucks, trailers, motorcycles, tractors, buggies and wagons. (1985 Code, § 15-296)

15-1402. Nuisance. The accumulation and storage of abandoned, wrecked, junked, partially dismantled or inoperable motor vehicles on public and private property is hereby found to create an unsightly condition upon such property tending to reduce the value thereof, to invite plundering, to create fire

hazards and to constitute an attractive nuisance creating a hazard to the health and safety of minors. Such accumulation and storage of vehicles is further found to promote urban blight and deterioration in the community; to violate the zoning regulations of the city in many instances, particularly where such vehicles are maintained in the required yard areas of residential property; and that such wrecked, junked, abandoned or partially dismantled or inoperable motor vehicles are in the nature of rubbish, litter and unsightly debris in violation of health and sanitation laws. Therefore, the accumulation and storage of such vehicles on public and private property, except as expressly permitted in this chapter, is hereby declared to constitute a public nuisance which may be abated as such, which remedy shall be in addition to any other remedy provided in this code. (1985 Code, § 15-297)

15-1403. Storage on public or private property. No person shall park, store or leave or permit the parking, storing or leaving of any motor vehicle which is in a rusted, wrecked, junked, partially dismantled, inoperable or abandoned condition upon any property within the city for a period in excess of ten (10) days unless such vehicle is completely enclosed within a building or unless such vehicle is so stored or parked on said property in connection with a duly licensed business or commercial enterprise operated and conducted pursuant to law when such parking or storing of vehicles is necessary to the operation of the business or commercial enterprise. (1985 Code, § 15-298)

15-1404. Notice to remove. Whenever it shall appear that a violation of the provisions of this chapter exists, the manager shall give, or cause to be given, notice to the registered owner of any motor vehicle which is in violation of this chapter, and he shall give such notice to the owner or person in lawful possession or control of the property upon which such motor vehicle is located, advising that such motor vehicle violates the provisions of this chapter and directing that such motor vehicle be moved to a place of lawful storage within ten (10) days. Such notice shall be served upon the owner of the vehicle by leaving a copy of such notice on or within the vehicle. Notice to the owner or person in lawful possession or control of the property upon which such motor vehicle is located may be served by conspicuously posting such notice upon the premises. In the case of publicly-owned property, notice to the owner of the property where the vehicle is found is hereby dispensed with. (1985 Code, § 15-299)

15-1405. Failure to remove. The owner of any abandoned vehicle who fails, neglects or refuses to remove such vehicle or to house such vehicle and abate such nuisance in accordance with the notice given pursuant to the provisions of § 15-1404 shall be guilty of a misdemeanor. (1985 Code, § 15-300)

15-1406. **Abatement and removal by city**. If the vehicle is not disposed of after the time provided for in the notice, the manager shall report the location of such vehicle to the police department. The police department or a wrecker company designated by it shall then remove such vehicle or cause it to be removed to the wrecker company storage lot. At the time that the vehicle is removed by the police department or the wrecker company, a tow-in ticket shall be completed by the person towing such vehicle to such garage. In the case of a vehicle parked on private property, the manager or his designee shall cause to be served a citation and summons issued by the municipal court upon the owner of the vehicle and the owner of the real property where the vehicle is located. If the owner of the vehicle or the owner of the real property cannot be located or identified in the course of due diligence, an affidavit by the manager or his designee stating the efforts to locate and identify the owner of the vehicle or the owner of the real property, as the case may be, shall be submitted to the municipal court to show the efforts to provide notice. The municipal judge shall be authorized pursuant to Tennessee Code Annotated, § 55-5-122 to order the police department to remove a vehicle from private property when the manager or his designee shows that the vehicle is in violation of this chapter and that notice has been given or that due diligence to provide notice has been satisfactorily shown. (1985 Code, § 15-301, as amended by Ord. #4522-13, Jan. 2016)

15-1407. **Tow-in ticket**. The tow-in ticket as provided for in this section shall be in the following form:

"VEHICLE REMOVED TO CITY GARAGE

Ticket No. _____

Make of Car _____ Type _____ Motor No. _____

Serial No. _____ License No. _____ State _____

Where found _____ Date _____

Time _____ Parts of Car Damaged or Missing _____

_____

Keys in car ___ Switch Locked ____ Switch Unlocked ___

Trunk locked ___ Doors Locked ___ Radio in Car ___

Spare Tire and Wheel ___ Jack___ Was Car Driven In ___

By: _____ Personal Property in Car _____

_____

Remarks _____

_____

Owner _____

Address _____ City or State _____

Signature of Tow-Man _____

Signature of City Manager or his representative _____

_____."

(1985 Code, § 15-302)

15-1408. Removal and storage. (1) Abandoned vehicles shall be transported from the property where they are found to the city garage only during the daylight hours.

(2) The abandoned vehicle shall not be double decked on the city garage lot until the title search provided for in § 15-1409 has been completed by the police department. (1985 Code, § 15-303)

15-1409. Title search. At the time that an abandoned vehicle is moved to the city garage, the city police department shall be notified immediately of such fact, and the department shall procure the serial number on the vehicle. The police department shall make or cause to be made a title search on the abandoned vehicle, and after the title search has been completed by the department, the results thereof shall be transmitted to the manager. (1985 Code, § 15-304)

15-1410. Sale at public auction. (1) After a title search of the abandoned vehicle has been made by the police department, the manager shall give notice by registered mail to the owner of such vehicle that the vehicle will be sold at public auction by the city. The notice shall specify the date, hour and location of the sale. The manager shall determine the date of the sale of the abandoned vehicle, and at the time of the sale, the vehicle shall be sold by the city, and he may sell such vehicles individually or as a group. Each car at the sale shall be subject to the tow-in charges and storage charges, which charges shall be determined by the manager, and the city shall be permitted to bid at the sale. Title to the abandoned vehicles sold at the aforesaid public auction shall pass to the purchaser at the time of the sale. The proceeds derived from the sale of the vehicles shall be retained by the city. The police department shall report to the manager the vehicles sold at the sale and the amount received for the vehicles.

(2) Notice of the sale shall be posted at the municipal and safety building, the Ash Street courthouse and such other places as the manager may determine, ten (10) days in advance of the sale. (1985 Code, § 15-305)

15-1411. Return of vehicle to owner. If during the time that a vehicle is being held by the city under this chapter, the owner of the vehicle demands the return of such vehicle, then the city shall turn the vehicle over to the owner upon the payment of the storage and tow-in fees by the owner. The police department shall notify the manager of such redemption by such owner. (1985 Code, § 15-306)

15-1412. Storage and sale of property found in vehicle. Any valuable property found in any abandoned vehicle subject to this chapter shall be stored by the police department and sold at public auction as determined by the manager. (1985 Code, § 15-307)

15-1413. Disposition of funds from sale of vehicle. All funds coming into the hands of the city from the sale of vehicles or property under this chapter shall be applied first to the expenses incurred in the removal and sale of the vehicles and property, and the remainder shall be deposited in the general fund of the city. (1985 Code, § 15-308)

CHAPTER 15

BICYCLES AND SHARED MOBILITY

SECTION

15-1501. Applicability. This chapter shall apply to all multi-use trails, sidewalks, and roadways; and to all persons using the aforementioned multi-use trails, sidewalks, and roadways. (Ord. #3443, Jan. 1997)

15-1502. Responsibility of parents for children's violations. The parent of any minor child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any of the provisions of this chapter. (Ord. #3443, Jan. 1997)

15-1503. Bicycle riders subject to vehicle regulations. Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by the laws of this state declaring rules of the road applicable to vehicles or the traffic laws of this city applicable to the driver of a vehicle, except as to those provisions of laws and ordinances which by their nature can have no application to bicycles. (Ord. #3443, Jan. 1997)

15-1504. Obedience to traffic-control devices. (1) Any person operating a bicycle shall obey the instructions of official traffic-control signals, signs, and other control devices applicable to vehicles, unless otherwise directed by a public safety officer.

(2) Whenever authorized signs are erected indicating that no right or left turn is permitted, no person operating a bicycle shall disobey the direction of any such sign, except where such person dismounts from the bicycle to make any such turn, in which event such person shall then obey the regulations applicable to pedestrians. (Ord. #3443, Jan. 1997)

15-1505. Operating a bicycle on or adjacent to a roadway.

(1) When a bicycle lane is not available, all persons operating a bicycle upon an arterial, collector, or local roadway shall ride on the right side of the road, moving in the same direction as motor vehicle traffic. All persons operating bicycles upon a road way shall not ride more than two (2) abreast when in traffic.

(2) Convention Bicycle/Bike Lane (CBL): When a conventional bike lane is available, all persons operating a bicycle shall ride in the conventional bike lane in the same direction as vehicular traffic; providing however, that the operator may move out of the lane to make a left or right turn, or to avoid a hazardous condition. All persons entering a conventional bike lane shall yield the right-of-way to all bicycles already in the lane.

(3) Protected Bicycle/Bike Lane (PBL): When a protected bike lane is available, all persons operating a bicycle shall ride in the protected bike lane in the appropriate direction and manner as indicated by signage or pavement markings. All persons entering a protected bike lane shall yield the right-of-way to all bicycles already in the lane, and all bicycle movements in and out of protected bike lanes shall occur at designated openings in the lane. (Ord. #3443, Jan. 1997, as amended by Ord. #4686-19, Nov. 2019 ***Ch12_6-20-20***)

15-1506. Operating a bicycle on a multi-use trail. All persons operating a bicycle or Class 1 e-bike on a multi-use trail shall ride on the right side of the multi-use trail; providing however, that the operator may move left to make a left turn, to avoid a hazardous condition, or to pass a pedestrian or slower moving object. Due care shall be taken and an audible signal given when passing a pedestrian or slower moving object. Any class 2 and class 3 e-bikes are prohibited from operating on multi-use trails. (Ord. #3443, Jan. 1997, as amended by Ord. #4686-19, Nov. 2019 ***Ch12_6-20-20***)

15-1507. Operating a bicycle on a sidewalk. (1) No person over the age of sixteen (16) shall operate a bicycle on a sidewalk located on a local street unless that person is supervising a child while riding. All persons may operate a bicycle on an arterial or collector street.

(2) All persons operating a bicycle on a sidewalk shall yield the right-of-way to any pedestrian and shall give an audible signal before passing said pedestrian.

(3) No e-bike shall be operated on any sidewalk unless the assisting motor is disabled and the person riding on the e-bike is supervising a child while

riding. (Ord. #3443, Jan. 1997, as amended by Ord. #4686-19, Nov. 2019 ***Ch12_6-20-20***)

15-1508. Emerging from an alley, driveway, or building. All persons operating a bicycle emerging from an alley, driveway, or building shall upon approaching a sidewalk or roadway yield the right-of-way to all pedestrians and automobiles. (Ord. #3443, Jan. 1997)

15-1509. Driver and passengers. All persons riding on a bicycle shall be on a regular seat. Extra riders shall not be permitted to ride on a bicycle in a manner other than the bicycle or its equipment was designed. (Ord. #3443, Jan. 1997)

15-1510. Warning device. No person shall operate a bicycle unless it is equipped with a bell or other device capable of giving a signal audible for a distance of at least one hundred (100) feet, except that a bicycle shall not be equipped with nor shall any person use any siren or whistle. (Ord. #3443, Jan. 1997 as amended by Ord. #4686-19, Nov. 2019 ***Ch12_6-20-20***)

15-1511. Hitching prohibited. No person operating a bicycle shall attach oneself to a vehicle or hold onto another vehicle while it is moving. (Ord. #3443, Jan. 1997)

15-1512. Speed. No person shall operate a bicycle at a speed greater than is reasonable and prudent under the existing conditions, and in no case greater than the applicable posted speed limit. (Ord. #3443, Jan. 1997)

15-1513. Carrying articles. No person operating a bicycle shall carry any package, bundle, or article which prevents the operator from keeping at least one (1) hand upon the handlebars. (Ord. #3443, Jan. 1997)

15-1514. Lights and reflectors. No person shall operate a bicycle at nighttime unless the bicycle or operator is equipped with a white light visible from a distance of at least five hundred (500) feet to the front of the bicycle and red or amber light, flashing light, or reflector, visible from a distance of at least five hundred (500) feet to the rear of the bicycle. (Ord. #3443, Jan. 1997)

15-1515. Brakes. All bicycles shall be equipped with mechanical brakes suitable of bringing the bicycle to a quick stop. (Ord. #3443, Jan. 1997)

15-1516. Bicycle parking. No person shall park a bicycle on a multi-use trail, sidewalk, or roadway, in such a fashion that it obstructs any other lawful form of traffic. (Ord. #3443, Jan. 1997 as amended by Ord. #4686-19, Nov. 2019 ***Ch12_6-20-20***)

15-1517. Shared mobility. (1) General operating regulations. (a) Any operator proposing a shared mobility platform within the city shall first obtain a business license and any applicable development permits.

(b) Shared mobility docking stations shall be installed on private property and only within the shared mobility zone. Accompanying shared mobile devices may be used as allowed by this chapter only within the shared mobility zone.

(c) Permittees operators agree that the city is not responsible for educating users regarding applicable laws. The city is not responsible for educating users on the use and operation of any shared mobile device. Permittees operators agree to educate users regarding all applicable laws and to instruct users to comply with all applicable laws.

(2) Indemnification of shared mobility platforms. Any operator shall indemnify and hold harmless the City of Johnson City from any claims arising from the provision or use of shared mobility.

(3) Abandonment. Any shared mobile that is abandoned or left unattended within the public right-of-way for a period greater than twelve (12) hours may be removed and impounded by the city at the expense of the permittee. (as added by Ord. #4686-19, Nov. 2019 ***Ch12_6-20-20***)

CHAPTER 16

PEDESTRIANS

SECTION

15-1601. Designation of crosswalks, safety zone. The city traffic engineer is hereby authorized:

(1) To designate and maintain, by appropriate devices, marks or lines upon the surface of the roadway, crosswalks at intersections where in his opinion there is particular danger to pedestrians crossing the roadway, and at such other places as he may deem necessary; and

(2) To establish safety zones of such kind and character and at such places as he may deem necessary for the protection of pedestrians. (1985 Code, § 15-356)

15-1602. Pedestrians subject to traffic regulations. Pedestrians shall be subject to traffic-control signals as declared in § 15-706, but at all other places pedestrians shall be granted those rights and be subject to the restrictions stated in this chapter. (1985 Code, § 15-357)

15-1603. Right-of-way in crosswalks. (1) When traffic-control signals are not in place or not in operation the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.

(2) No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield.

(3) Subsection (1) shall not apply under the conditions stated in paragraph (2) of § 15-1606.

(4) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle. (1985 Code, § 15-358)

15-1604. Pedestrians to use right half of crosswalks. Pedestrians shall move, whenever practicable, upon the right half of crosswalks. (1985 Code, § 15-359)

15-1605. Crossing roadways at right angles. No pedestrian shall cross a roadway at any place other than by a route at right angles to the curb or by the shortest route to the opposite curb, except in a crosswalk. However, at intersections where traffic-control signals have traffic stopped in all directions, these provisions shall not apply to pedestrians crossing within the area common to both intersecting roadways. (1985 Code, § 15-360)

15-1606. Yielding right-of-way. (1) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

(2) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway.

(3) The foregoing rules in this section have no application under the conditions stated in § 15-1607 when pedestrians are prohibited from crossing at certain designated places. (1985 Code, § 15-361)

15-1607. Crossing streets at other than crosswalks. (1) Between adjacent intersections at which traffic-control signals are in operation, pedestrians shall not cross at any place except in a marked crosswalk.

(2) No pedestrian shall cross a roadway other than in a crosswalk in any business district. (1985 Code, § 15-362)

15-1608. Obedience to railroad signals. No pedestrian shall pass through, around, over or under any crossing gate or barrier at a railroad grade crossing or bridge while such gate or barrier is closed or is being opened or closed. (1985 Code, § 15-363)

15-1609. Walking on roadways. (1) Where sidewalks are provided, it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway.

(2) Where sidewalks are not provided, any pedestrian walking along and upon a highway shall, when practicable, walk only on the left side of the

roadway or its shoulder facing traffic which may approach from the opposite direction. (1985 Code, § 15-364)

15-1610. Solicitation of rides or business. (1) No person shall stand in a roadway for the purpose of soliciting a ride, employment or business from the occupant of any vehicle.

(2) No person shall stand on or in proximity to a street or highway for the purpose of soliciting the watching or guarding of any vehicle while parked or about to be parked on a street or highway. (1985 Code, § 15-365)

15-1611. Drivers to exercise due care. Notwithstanding the foregoing provisions of this chapter, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any confused or incapacitated person upon a roadway. (1985 Code, § 15-366)

CHAPTER 17

ACCIDENTS

SECTION

15-1701. Immediate notice of accident. The driver of a vehicle involved in an accident resulting in injury to or death of a person, or property damage to an apparent extent of fifty dollars ($50.00) or more, shall immediately by the quickest means of communication give notice of such accident to the police department if such accident occurs within this city. (1985 Code, § 15-383)

15-1702. Report required. The driver of a vehicle which is in any manner involved in an accident resulting in bodily injury to or death of any person or total property damage to an apparent extent of fifty dollars ($50.00) or more shall, within ten (10) days after such accident, forward a written report of such accident to the police department, or a copy of any report he is required to forward to the state. The provisions of this section shall not be applicable when the accident has been investigated at the scene by a police officer while such driver was present thereat. (1985 Code, § 15-384)

15-1703. When driver unable to report. (1) Whenever the driver of a vehicle is physically incapable of giving an immediate notice of an accident as required in § 15-1701 and there was another occupant in the vehicle at the time of the accident capable of doing so, such occupant shall give, or cause to be given, the notice not given by the driver.

(2) Whenever the driver is physically incapable of making a written report of an accident as required in § 15-1702 and such driver is not the owner of the vehicle, then the owner of the vehicle involved in such accident shall within ten (10) days after learning of the accident make such report not made by the driver. (1985 Code, § 15-385)

15-1704. Reports confidential. (1) All accident reports made by persons involved in accidents or by garages shall be without prejudice to the individual so reporting and shall be for the confidential use of the police department or other governmental agencies having use for the records for accident prevention purposes, or for the administration of the laws of this state relating to the deposit of security and proof of financial responsibility by persons driving or the owners of motor vehicles, except that the identity of a person

involved in an accident may be disclosed when such identity is not otherwise known or when such person denies his presence at such accident.

(2) All accident reports and supplemental information filed in connection with the administration of the laws of this state relating to the deposit of security or proof of financial responsibility shall be confidential and not open to general public inspection, nor shall copying of lists of such reports be permitted; except, however, that such reports and supplemental information may be examined by any person named therein or by his representative designated in writing.

(3) No reports or information mentioned in this section shall be used as evidence in any trial, civil or criminal, arising out of an accident, except that the police department shall furnish upon demand of any party to such trial, or upon demand of any court, a certificate showing that a specified accident report has or has not been made to the department in compliance with law. (1985 Code, § 15-386)

15-1705. Reports by operators of garages and repair shops. The person in charge of any garage or repair shop to which is brought any motor vehicle which shows evidence of having been involved in an accident of which a written report must be made to the state, or which has been struck by a bullet or otherwise apparently involved in violence, shall report to the police department within twenty-four (24) hours after such motor vehicle is received, giving the engine number, registration number and the name and address of the owner or operator of such vehicle if known. (1985 Code, § 15-387)

CHAPTER 18

AUTOMATED TRAFFIC ENFORCEMENT

SECTION

15-1801. Automated enforcement. (1) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning.

(a) "Citations and warnings" shall include:

(i) The name and address of the registered owner of the vehicles;

(ii) The registration plate number of the motor vehicle involved in the violation;

(iii) The violation charged;

(iv) The location of the violation;

(v) The date and time of the violation;

(vi) A copy of the recorded image;

(vii) The amount of the civil penalty imposed and the date by which the civil penalty should be paid or by which a hearing must be requested, pursuant to subsection (3)(b)(ii) of this section, which dates shall be not less than thirty (30) days from the date of mailing of the citation;

(viii) A personally or electronically signed statement by a member of the police department that, based on inspection of recorded images, the vehicle was being operated in violation of subsection (3) of this section; and

(ix) Information advising the person alleged to be liable under this section:

(A) Of the manner and time in which liability alleged in the citation occurred and that the citation may be contested in the municipal court; and

(B) Warning that failure to contest in the manner and time provided shall be deemed an admission of liability and that a default judgment may be entered thereon.

(b) "In operation" means operating in good working condition.

(c) "Recorded images" means images recorded by a traffic control photographic system

(i) On:

(A) A photograph;

(B) A microphotograph;

(C) An electronic image;

(D) Videotape; or

(E) Any other medium; and

(ii) At least one (1) image or portion of tape, clearly identifying the registration plate number of the motor vehicle.

(d) "System location" is the approach to an intersection toward which a photographic, video or electronic camera is directed and is in operation.

(e) "Traffic control photographic system" is an electronic system consisting of a photographic, video or electronic camera and a vehicle sensor installed to work in conjunction with an official traffic control sign, signal or device, and to automatically produce photographs, video or digital images of each vehicle violating a standard traffic control sign, signal, or device.

(f) "Vehicle owner" is the person identified by the state department of safety as the registered owner of a vehicle.

(2) General. (a) The city police department or an agent of the police department shall administer the traffic control photographic systems and shall maintain a list of system locations where traffic control photographic systems are installed.

(b) A citation or warning alleging that the violation of subsection (3) of this section occurred, sworn to (or affirmed) and by statement signed personally or electronically by a member of the police department or an employee of the City of Johnson City assigned to the police bureau, based on inspection of recorded images produced by a traffic control photographic system, shall be evidence of the facts contained therein and shall be admissible in any proceeding alleging a violation under this section. The citation or warning shall be forwarded by first-class mail to the owner's address as given on the motor vehicle registration. Personal service of process on the owner shall not be required.

(c) In addition to the signage requirements of subsection (7) below, signs to indicate the use of traffic control photographic systems in Johnson City shall be posted and visible at various other locations in the city.

(3) Offense. (a) Except when directed to proceed by a police officer or traffic control signal, every driver shall stop when facing a red signal light at the stop bar, and it shall be unlawful for a vehicle to cross the stop bar at a system location when facing a red signal light as set out in § 15-705(3)(a), or for a vehicle to violate any other traffic regulation specified in this chapter.

(b) A person who receives a citation under subsection (2) may:

(i) Pay the civil penalty, in accordance with instructions on the citation, directly to the municipal court or to the contracted collection agency; or

(ii) Elect to contest the citation for the alleged violation. An election to contest such citation shall not result in civil penalties or court costs in addition to those assessed pursuant to section (4)(a) below, if the responsible party is then found by the court to have violated subsection (3).

(c) The owner of a vehicle shall be responsible for a violation under this section, except when he can provide evidence that the vehicle was in the care, custody or control of another person at the time of the violation, as described in subsection (3)(d) of this section, in which circumstance the person who had the care, custody or control of the vehicle at the time of the violation shall be responsible.

(d) Notwithstanding subsection (3)(c) of this section, the owner of the vehicle shall not be responsible for the violation if, on or before the designated court date, he or she furnishes the city court:

(i) An affidavit stating the name and address of the person or entity who leased, rented, or otherwise had the care, custody or control of the vehicle at the time of the violation; or

(ii) An affidavit by him stating that, at the time of the violation, the vehicle involved or its license plate was stolen, along with a certified copy of the police report reflecting such theft, or that the vehicle was in the care, custody or control of some person who did not have his or her permission to use the vehicle, and stating the name and address of said person. An affidavit alleging theft of a motor vehicle or its plates must be provided by the registered owner of a vehicle receiving a notice of violation within thirty (30) days of the mailing date of the notice of violation.

If an individual identified pursuant to subsection (3)(d)(i) placed the vehicle in the care, custody or control of another at the time of the violation, said individual may likewise submit an affidavit pursuant to subsection (3)(d)(i). If an individual identified pursuant to subsection (3)(d)(i) demonstrates to the city court that he or she did not lease or rent the vehicle or otherwise was not given care, custody or control of the vehicle, the owner of the vehicle shall remain responsible for the violation, and a citation as set forth above shall be reissued to the owner of the vehicle.

(4) Penalty. (a) Any violation of subsection (3) of this section shall subject the responsible person or entity to a civil penalty of fifty dollars ($50.00) and the assessment of court costs for each violation. Failure to appear in court on the designated date shall subject the responsible person or entity to a civil penalty of fifty dollars ($50.00) and the assessment of court costs. Being found by the court as having violated subsection (3) of this section shall likewise subject the responsible person or entity to a civil penalty of fifty dollars ($50.00) and the assessment of court costs. No additional penalty or other costs shall be assessed for

non-payment of a traffic violation or citation that is based solely on evidence obtained from a surveillance camera installed to enforce or monitor traffic violations, unless a second notice is sent by first class mail to the registered owner of the motor vehicle and such second notice provides for an additional thirty (30) days for payment of such violation or citation. The city may enforce the civil penalties by a civil action in the nature of a debt.

(b) A violation for which a civil penalty is imposed under this section shall not be considered a moving violation and may not be recorded by the police department or the state department of safety on the driving record of the owner or driver of the vehicle and may not be considered in the provision of motor vehicle insurance coverage.

(5) Exemptions. The owners of the following vehicles are exempt from receiving a notice of violation:

(a) Emergency vehicles with active emergency lights;

(b) Vehicles moving through the intersection to avoid or clear the way for a marked emergency vehicle;

(c) Vehicles under police escort; and

(d) Vehicles in a funeral procession.

(6) Yellow light time exposure. The City of Johnson City shall not reduce or cause the reduction of the time exposure of the yellow light at any intersection where it installs, owns, operates, or maintains a traffic-control signal light that employs a surveillance camera for the enforcement or monitoring of traffic violations with the intended purpose of increasing the number of traffic violations.

(7) Signage and stop bars. At all system locations where traffic control photographic systems operate at intersections within the City of Johnson City, there shall be installed stop bars and signage stating that a traffic control photographic system is in operation. Such signage shall be placed near such system and/or on the roadside, not less than two hundred feet (200') from such system. (as added by Ord. #4297-07, Dec. 2008)

TITLE 16

STREETS AND SIDEWALKS, ETC[1]

CHAPTER

CHAPTER 1

MISCELLANEOUS

SECTION

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[1]Municipal code reference
Related motor vehicle and traffic regulations: title 15.

16-124. Catch basins--specifications generally.

16-101. Definition. As used in this chapter, where consistent with the context, the word "grade" as applied to any street shall mean the elevation above sea level of the sidewalk at the building or curbline. (1985 Code, § 21-1)

16-102. Supervision. The city manager shall have general care and charge of all highways, streets, sidewalks, bridges, parks, public buildings and grounds; shall cause same to be kept in good repair; shall make all necessary arrangements for cleaning the same; and shall see that all nuisances and obstructions are speedily removed, or give notice of same to the chief of police. (1985 Code, § 21-2)

16-103. Throwing glass, tacks, etc., into streets. No person shall throw, scatter, drop or place, or shall cause or procure to be thrown, scattered, dropped or placed in or upon any street, highway, avenue or other public place within the city, any glass, tacks, nails, pieces of metal or any other substance likely to injure or damage any horse or mule or bicycle or other wheeled vehicle having tires of rubber. (1985 Code, § 21-3)

16-104. Placing or throwing dirt, ashes, etc.. No person shall put, place or throw in or upon any street or other place in this city any house dirt, ashes, soot, shavings, paper, rags, suds, weeds or refuse matter or rubbish or obstruction of any kind, and no person shall place or deposit in any street or other public place, any stone or mason's or bricklayer's rubbish, or allow his fuel to remain on any street or sidewalk overnight, without the consent of the city manager, prescribing the time and manner of such deposit. (1985 Code, § 21-4)

16-105. Sidewalk vending. (1) The sale of any food, beverages, merchandise, or any items of any kind on any public sidewalk, street, or other public area shall be prohibited except as provided in § 16-105(2) following.

(2) (a) Definitions. (i) "Sidewalk vending" shall mean to sell or offer to sell from a cart any authorized product on the public sidewalks, as identified in this section.

(ii) "Sidewalk vendor" shall mean any person who vends under the provisions of this section and shall include any employee or agent of another.

(b) Products sold. Products sold by sidewalk vendors shall be limited to food and non-alcoholic beverages.

(c) Locations. Sidewalk vending shall be permitted only upon public sidewalks within that portion of downtown Johnson City bounded by Colonial Way, State of Franklin Road, Buffalo Street, and East Market Street. Sidewalk vending shall also be permitted upon public sidewalks within that portion of downtown Johnson City bounded by North Roan

Street, West Millard Street, North Boone Street, and West King Street. No vending cart shall be located as to interfere with pedestrian movement or be located within thirty feet (30') of the center of the front door of a retail establishment selling food and beverages or be located within ten feet (10') of any marked pedestrian crosswalk or any transit stop. Only one (1) self-contained cart shall be allowed for one (1) vendor at one (1) location at any time.

(d) Permit required. Each sidewalk vendor shall operate pursuant to a permit issued by the city's finance department. The application for a sidewalk vendor's permit shall include the following:

(i) The full name, address, telephone number and e-mail address (if available) of the applicant and the owner (if other than the applicant) and proof of applicant's identity;

(ii) A description of the types of food and beverages to be sold;

(iii) An accurate depiction or description of the proposed sidewalk location where the applicant plans to vend;

(iv) Proof of compliance with all city and state health and sanitation regulations and requirements for vending carts and for selling food and/or non-alcoholic beverages and copies of all required permits;

(v) A valid business license issued by the City of Johnson City;

(vi) A valid business license issued by Washington County;

(vii) Proof of and continued maintenance of insurance by a company licensed to do business in Tennessee, insuring the vendor against all claims for damages which may arise from the operation pursuant to the permit; a certificate of insurance in the amount of one million dollars ($1,000,000.00) naming the city as an additional insured with thirty (30) days' notice to the city of cancellation; and

(viii) A two hundred dollar ($200.00) non-refundable application fee.

Not later than thirty (30) days after the filing of a completed application, the applicant shall be notified by the finance department of the issuance or denial of the permit. A permit issued pursuant to this section shall be valid for one (1) year from the issuance date. Each sidewalk vending location shall require a separate permit.

(e) Denial, revocation, suspension of permit. Any application may be denied and, following a hearing before the finance director, any sidewalk vendor permit may be suspended or revoked for any of the following causes:

(i) Fraud or misrepresentation in the application;

(ii) Fraud or misrepresentation in the operation of the vending business;

(iii) Conduct of the vending business in a manner that creates a public nuisance or constitutes a danger to the public health, safety or welfare;

(iv) Incomplete application;

(v) Failure of the applicant or sidewalk vendor to satisfy the requirements of this section;

(vi) Conduct in violation of the provisions of this section; or

(vii) Failure to comply with any other applicable laws, including but not limited to federal, state, and local laws pertaining to the collection of taxes, fees, fines, or penalties.

The applicant or the sidewalk vendor may appeal the decision of the finance director by application to a court of competent jurisdiction in accordance with Tennessee law.

(f) Prohibited acts. No sidewalk vendor shall:

(i) Leave any cart unattended.

(ii) Store, park or leave any cart overnight on any street, sidewalk or other public area;

(iii) Allow any items relating to the operation of the vending business to be placed anywhere other than in, on, or under the cart from which the business is operated;

(iv) Set up, maintain, or use any separate table or other device to increase the selling or display capacity of the cart;

(v) Solicit or sell to persons in the public roadway;

(vi) Solicit or sell to persons in motor vehicles;

(vii) Sell anything other than that which is specified in the permit;

(viii) Locate a cart on the sidewalk so as to block the sidewalk or the entranceway to any building or to block any driveway, crosswalk or transit stop;

(ix) Allow the cart or any other item relating to the operation of the vending business to touch or connect to any building or other structure, without the owner's permission; or

(x) Operate or park in the streets or alleys.

(g) Display of permits and licenses. Each sidewalk vendor shall display the following in a conspicuous manner:

(i) The vending permit issued by the city;

(ii) The business license issued by the city;

(iii) The business license issued by Washington County;

(iv) All state and local health and sanitation permits; and

(v) All other permits required by law to be displayed.

(h) General cleanliness. Each sidewalk vendor shall maintain the area around the vending cart in a neat and clean manner at all times and shall provide a litter receptacle for public use at the cart.

(i) Special events. The city may suspend the provisions of this section for special events and/or street festivals, which have street closures approved by the city commission.

(j) Enforcement. The police bureau of the city shall enforce the provisions of this section.

(k) Penalty. Any person violating this section shall be guilty of an offense and upon conviction shall pay a penalty of not more than fifty dollars ($50.00) for each offense. Each day of violation shall constitute a separate offense. (1985 Code, § 21-5, as replaced by Ord. #4351-09, June 2009)

16-106. Street carnivals, fairs, etc. It shall be unlawful for any person to produce or offer to produce, set up or exhibit within the city any street carnival, street fair or other similar show; provided, that this section shall not be construed to apply to circuses and menageries. (1985 Code, § 21-6)

16-107. Streamers, etc., on or over streets, sidewalks. No person shall place or erect on or over any street, sidewalk, park or parkway any streamer or advertising matter of any kind. (1985 Code, § 21-7)

16-108. Condemnation proceedings. (1) Whenever the board of commissioners, by resolution, determines that the public interest demands that any new street should be opened within the city or any old street should be extended, widened or straightened, and the owner of the land through which same shall pass requires damages, the board shall by resolution proceed to condemn land for the same, and provide damages therefor in the manner set forth in the laws of the state. The names of any number of nonresident owners may be inserted in one (1) advertisement.

(2) Whenever the funds to settle the damages assessed by the jury of view, as provided in this section, shall be in the hands of the recorder for the benefit of the owner of the land, the board of commissioners may condemn the land by ordinance, and, after allowing such property owners five (5) days' time in which to open such street, may order such street to be opened, and the same shall be and become a public thoroughfare. (1985 Code, § 21-8)

16-109. Grades--establishment generally. (1) Every grade shall be fixed by the engineer and established by resolution of the board of commissioners on presentation of a profile showing such grade, and such profile shall be known as the official profile of such street or part of street. No grade, when once established, shall be changed by any person except on order of the board, by resolution, attested to in same manner as provided in this section.

(2) On streets, along hill sides, where it is necessary for drainage and economy, to have the curb grades higher or lower than the centerline of such street, the same shall be shown on the profile and approved as street grades. (1985 Code, § 21-9)

16-110. Grades--when required; building permit. No person shall erect any permanent improvement without first obtaining the grade from the city engineer and adhering to it. In case of such improvement being a building of any kind the city engineer shall not furnish the grade until the owner has obtained a building permit. (1985 Code, § 21-9.1)

16-111. Utility poles, pipes, etc.--permit. No public service corporation, whether operating under a city franchise or under the general laws of the state, shall locate any pole, wire, conduit, pipe or other apparatus without first having obtained a permit from the city manager in writing, one (1) copy of which shall be filed with the recorder. (1985 Code, § 21-10)

16-112. Utility poles--specifications generally; use; removal. The city manager shall specify in the permit the kind, size and height of poles to be used, the height at which all wires must be placed and the size, location and depth of all pipes and conduits. The construction of such lines shall conform thereto in all particulars, or be forthwith subject to removal. Any permit granted under this section shall be subject to the right of the city, free of charge, to place its fire alarm, telegraph or other electric lines, upon the poles or through the conduits so licensed to be maintained; and shall be subject to the right of the city to license the location of lines by any other person upon such poles or through such conduits, upon the payment to the owner thereof of a reasonable compensation, to be determined by the parties. The city manager shall not grant permits for more than one (1) line of poles on any street, unless it is impossible to use two (2) lines of wire on the same poles, and shall use every endeavor to located poles where they shall be least objectionable. Any such company, at its own expense, shall remove its poles or conduits to other suitable locations whenever ordered to do so by the board of commissioners. (1985 Code, § 21-11)

16-113. Draining, discharging, etc., water across sidewalks. No water shall be drained, discharged or permitted to drain from the roof of any building, so as to flow across any sidewalk or walkway. The conductors for such water shall be made by the owner of such building under such sidewalks or walkways, and shall be constructed under the direction of the city manager. (1985 Code, § 21-12)

16-114. Removal of snow, ice or dirt. No person shall allow any snow, ice or dirt to remain upon any sidewalk in front of any property owned,

controlled or occupied by him, for a longer period than twelve (12) hours; provided, that this shall not apply to dirt or gravel sidewalks. (1985 Code, § 21-13)

16-115. Cutting, breaking, etc., fastening animals to trees. No person shall cut, break or injure any shade trees on the public streets or sidewalks, or on the private premises of another, or fasten any horse or other animal to a shade tree standing upon any public street, ground or square, or suffer any animal over which, for the time being, he has charge, to stand or remain near to, and within reach of such tree. (1985 Code, § 21-14)

16-116. Closing streets, alleys, sidewalks--generally. The city manager shall close any public street, alley or sidewalk for such time as he may deem necessary, for any of the following reasons or purposes:

(1) For necessary repairs to the street surfaces, or underground pipes or wires;

(2) When a dangerous condition exists, pending repair of same;

(3) For new construction or street paving or any underground construction; or

(4) For cases of serious illness, when a physician shall have certified that the noise of traffic is endangering the life of his patient. (1985 Code, § 21-15)

16-117. Closing streets, alleys, sidewalks--procedure. Closing of streets, alleys or sidewalks as authorized by § 16-116 shall be actual and effective, by means of barriers plainly visible day or night so that an actual removal of or disregard of such barrier shall be necessary to effect entry. (1985 Code, § 21-16)

16-118. Entering closed streets, etc. No person shall, without authority, enter or remain upon any portion of the public street, alleys or sidewalks which have been enclosed, barricaded or roped off by order of the city manager or chief of police, or chief of the fire department. (1985 Code, § 21-17)

16-119. Permit to obstruct or excavate street--required. No person shall break or dig up the grounds in any public street, way or public place or lands of the city, or erect or place thereon any staging, or place or deposit thereon any brick, stone, timber or other building material, without first having obtained permission from the city manager in writing. (1985 Code, § 21-18)

16-120. Permit to obstruct or excavate street--prerequisites; duties of permittee. (1) In all cases under § 16-119 in which a permit may be given for obstructing or excavating any street, the city manager shall impose such restrictions and limitations as he shall see fit, to make the street safe and

convenient for public travel, by the erection of barriers, the maintaining of lights, the removal of rubbish or otherwise. Such permit shall express the time for which it shall remain in force. It shall be a condition of such permit that the person excavating any street shall cause the same to be refilled and tamped and put in as good condition as it was before being opened, and in the case of a paved street, the earth so excavated shall be hauled away and the excavation refilled with slag or sand well tamped on which the paving shall be laid as it was before, all done to the satisfaction of the city manager.

(2) If any street in the portion which has been so opened or dug up shall require repairing and resurfacing within a period of six (6) months after it has been so disturbed, the city manager shall give notice in writing to the person who had or was given the right to make the excavation, to make such repairs therein as are necessary. If such repairs are not made within seven (7) days from the time of notification the city manager shall proceed to make such repairs, and the expense of the same, in case of a department of the city, shall be charged to such department, and in all other cases the same shall be paid by the person making the excavation.

(3) No person shall be given a permit to place any building material or other obstruction upon the streets or to excavate the same, without first having executed a good and sufficient bond to the city in the sum of not less than one thousand dollars ($1,000.00) nor more than ten thousand dollars ($10,000.00), conditioned to save the city harmless of damages resulting from such obstructions or excavations, and conditioned also to make the repairs required in this section. (1985 Code, § 21-19)

16-121. Contract for concrete walk, curbing, etc.; bond. (1) All persons laying or constructing concrete walks, curbing, guttering, retaining walls and similar structures in the city by contract with property owners or the city, shall, before engaging in such work or contract, enter into good and sufficient bond with good and solvent security to be approved by the city, with the city, for the use and benefit of each person or owner for whom the work is to be done, in the penalty for sixty (60) per cent of the contract of such work, conditioned that the contractor shall lay or construct the same according to plans and specifications and maintain same for three (3) years.

(2) Any person violating this section shall be guilty of a misdemeanor. His contract for such work shall be void and of no effect and collection therefor shall not be made until such bond shall have been furnished. The city engineer shall be the inspector and arbiter to determine whether this section is complied with. (1985 Code, § 21-20)

16-122. Washing vehicles, etc. (1) It shall be unlawful for any person to discharge into any street, gutter or alley within the city, any water used by such person on the premises owned or occupied by him, in the washing of

vehicles or for any other purpose or to discharge into such streets, gutters or alleys any refuse caused by the use of water on such premises.

(2) This section shall not apply to the natural drainage of rain or melted snow from the premises of any owner or occupant. (1985 Code, § 21-21)

16-123. Catch basins--when required. Any person using water on the premises owned or occupied by him, in such a manner and in such quantities as to cause water or refuse to flow or be discharged into the streets, gutters or alleys of the city, in the absence of appliances to prevent such discharge of water or refuse, is required to connect with the sanitary or storm sewer of the city in such manner that all such water shall flow into such sewer and not into the street, gutters or alleys of the city and to construct a catch basin upon his premises in such a manner and to maintain such catch basin in such manner that mud, debris and refuse caused from the use of such water will not enter into such sewer line. (1985 Code, § 21-22)

16-124. Catch basins--specifications generally. All catch basins required by § 16-123 shall be installed or constructed in a manner approved by the city engineer, and all sewer taps made under the requirements of this code shall be made in a manner approved by the city engineer. (1985 Code, § 21-23)

CHAPTER 2

CONSTRUCTION OF CURBS, SIDEWALKS, ETC.

SECTION

16-201. Sidewalk specifications. The specifications for the construction, repair or replacement of sidewalks and curbs shall be prepared by the city engineer and all work shall be performed pursuant to such specifications, copies of which shall be on file in the city engineer's office. (1985 Code, § 21-40)

16-202. When owner to construct or repair sidewalk. For the purpose of securing good and substantial sidewalks in the city and securing uniformity in the construction thereof, the board of commissioners, whenever deemed necessary by it, for the public welfare, may require the owner of any lot, or part of lot, in the city, fronting upon any public street, to construct and keep in repair a good and substantial sidewalk or foot pavement, along the whole street frontage of his lot, and of width and material prescribed by the board. (1985 Code, § 21-41)

16-203. Notice to owner to construct or repair. When so instructed by resolution by the board of commissioners, the recorder shall give the owner of a lot written notice stating the action of the board, and especially setting forth the work to be done pursuant to § 16-202 and the length of time within which same must be done; provided, that the time fixed shall not be less than twenty (20) days. (1985 Code, § 21-42)

16-204. Compliance with notice; work done by city. If the owner of any lot shall refuse to build or repair foot pavements within the time required by a notice so to do, and agreeably thereto, the board of commissioners, through any officer or agent it may designate, may contract for the construction or repair of same and shall pay the cost thereof out of the street fund, and the amounts so paid shall be a lien upon such lots or property and may be enforced by attachments at law or in equity; or the amount may be recovered against the owner by suit before any court of competent jurisdiction. The city attorney is authorized to proceed to enforce the lien declared and fixed by the charter and this chapter. (1985 Code, § 21-43)

16-205. Curbing alterations, etc. No curbing along the streets and alleys of the city shall be changed, altered or cut except under the supervision and direction of the city engineer or some competent person appointed by him. (1985 Code, § 21-44)

CHAPTER 3

DRIVEWAYS

SECTION

16-301. Policy. While acknowledging that it is every property owner's legal right to have access, it is also the city's responsibility to protect the health, safety, and welfare of the traveling public. To this end, and because of proliferation of curb cuts causes increased traffic hazards, it is the policy of the city to limit the number and placement of curb cuts only to those necessary to meet minimum legal obligations. The city engineer shall enforce this policy when reviewing and permitting driveway entrances. The "Guidelines for Urban Major Street Design, Recommended Practices," written by the Institute of Transportation Engineers Technical Committee 5-5, shall be used as the minimum standard. In cases where these guidelines differ from the adopted standards shown below, the adopted standards shall apply. (1985 Code, § 21-61)

16-302. Definitions. For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

(1) "Curb return." The curve portion of a street curb or alley curb at the street or alley intersections.

(2) "Driveway." An area on private property where automobiles and other vehicles are operated or allowed to stand.

(3) "Driveway approach." Any area, construction or facility between the roadway of public street and private property intended to provide access for vehicles from the roadway of a public street to something definite on private property such as a parking area, a driveway, or a door at least seven (7) feet wide intended and used for an entrance or exit of vehicles.

(4) "End slopes." Those portions of a driveway approach which provide a transition from normal curb and sidewalk elevations to the grade of the approach, by means of sloping surface. (1985 Code, § 21-62)

16-303. Prohibited locations. (1) No driveway approach shall be permitted to encompass any city or other public facilities. Under the permit provided for in § 16-307, the applicant may be authorized to relocate any such utility upon application to the subject utility provider and upon making suitable arrangements for financial reimbursements to such provider.

(2) No residential driveway approach including end slopes shall be permitted within twenty-five (25) feet of the edge of a cross street or within five (5) feet of the curb return, whichever is greater. No commercial driveway approach including its end slopes and curb return shall be permitted within seventy-five (75) feet of the edge of a cross street or within ten (10) feet of the curb return, whichever is greater. See Figure 1.

(3) No driveway or series of driveway approaches serving other than residential property shall be permitted to be constructed in such a way that the exit from such property would be accomplished by backing vehicles into a street right-of-way or roadway. (1985 Code, § 21-63)

16-304. Placement. (1) Not more than one (1) driveway approach shall be permitted per lot when the lot is one hundred (100) feet or less in width fronting on any street. Additional driveway approaches for lots fronting more than one hundred (100) feet on a street shall be at the professional discretion of the city engineer. The city engineer shall use as the basis for judgment such factors as street design and capacity, traffic counts, surrounding land use, and other established engineering guidelines.

(2) Driveways shall not be permitted at locations hidden from the user of the public street, as where sight distance problems exist.

(3) Horizontal approach angles between the centerline of the driveway and the centerline of the public street shall be a minimum of seventy (70) degrees. (1985 Code, § 21-64)

16-305. Width of approach. The width of a driveway approach shall not exceed the following dimensions measured at curbing from top of end slopes:

(1) The maximum width for residential driveways shall be fifteen (15) feet for single driveways and twenty-four (24) feet for double driveways.

(2) The maximum width for commercial driveways shall be forty (40) feet, not including turning radii. See Figure 2. (1985 Code, § 21-65)

16-306. Construction details. (1) All driveway approaches between the curbline and the property line shall be constructed of portland cement concrete proportioned to the satisfaction of the city engineer, except as provided in § 16-311, or if permitted by the city engineer, asphalt concrete may be used between the back of the curbline and the street side of the sidewalk line. The concrete of the driveway approach, including the sidewalk section, shall be at least six (6) inches thick for residential approaches and at least eight (8) inches thick for commercial approaches.

(2) The sidewalk section of the driveway approach shall be finished and scored as specified by the city engineer for typical sidewalk construction. Apron and end slope areas of the driveway approach shall be finished, after troweling smooth and scoring, with a fiber pushbroom drawn over the surface parallel to the curbline.

(3) Driveways with a grade of four (4) per cent or greater shall conform to Figure 8, as shown in Article IV, Standards of Design for Streets and Drainage. (1985 Code, § 21-66)

16-307. Permit--required. It shall be unlawful for any person to construct or maintain a driveway approach in the city without first obtaining a permit. (1985 Code, § 21-76)

16-308. Permit--application. Any person desiring to obtain a permit for driveway approaches shall file an application with the city engineer. This application shall be in writing upon forms provided by the city and shall contain information showing the type of construction, the length of the driveway, the exact location of the driveway and any other information which may be required by the city engineer. (1985 Code, § 21-77)

16-309. Permit--prerequisites to issuance. The owner and contractor shall protect the public from injury or damage during the construction of driveway approaches and it is stipulated, as an essential condition of the issuance of a permit, that the city shall not be liable for damage which may arise from the prosecution of such work. (1985 Code, § 21-78)

16-310. Permit--issuance; fees. Upon approval of such improvements, covered by this chapter, by the city engineer the applicant shall pay five dollars ($5.00) per fifteen (15) feet of driveway approach width or fraction thereof for the permit. (1985 Code, § 21-79)

16-311. Permit--no existing public sidewalks. Where standard curb and gutter have been installed but concrete sidewalks have not been installed, the permit may authorize the applicant to construct the driveway approach from the curbline to the applicant's premises of the same materials as those used for paving the applicant's premises, or of any other material satisfactory to the city engineer. Such driveway approach shall be constructed to the established grade and shall be adequate and suitable for the traffic to be carried by it. The permit shall provide and the applicant shall agree that if and when thereafter concrete sidewalks are constructed the applicant or his successor shall install concrete driveway approaches as specified in § 16-304. (1985 Code, § 21-80)

CHAPTER 4

RAILROADS

SECTION

16-401. Speed limit. It shall be unlawful for any railway company or its employees to operate or cause to be operated, within the corporate limits of the city, any train of cars, locomotive, handcar or rolling stock of any kind at a greater rate of speed than thirty (30) miles per hour. (1985 Code, § 18-1)

16-402. Obstructing crossing. It shall be unlawful for any person to cause or permit any locomotive engine, car or train of cars to stand upon any street crossing within the city for a longer time than four (4) minutes at one (1) time, which crossing shall not again be obstructed until all travelers awaiting upon the highway over such crossing shall have passed. (1985 Code, § 18-2)

16-403. Crossing at street intersection; specifications. It shall be the duty of each railroad entering the city to provide good and substantial crossings at every street intersection, all to be done in a manner satisfactory to the city engineer. (1985 Code, § 18-3)

16-404. Service of process, etc., upon railroads, etc. When any railroad or other corporation is charged with a violation of this code or other ordinance of the city, the warrant or process shall be served upon the highest agent of such company to be found in the city, and such service shall be deemed sufficient notice to such company or corporation. (1985 Code, § 18-4)

16-405. Trespassing. It shall be unlawful for any person, other than a railroad employee or passenger, to get upon any engine, car or train of cars attached to an engine, or to stand upon the steps or platform of any passenger car, or to ride or to attempt to ride upon an engine from one (1) point to another. (1985 Code, § 18-5)

16-406. Soliciting patronage, etc., at depots, etc. It shall be unlawful for any person at any depot or regular stopping place of trains to call

out or to solicit patronage, in a noisy or boisterous manner, for any hotel, restaurant, boardinghouse, taxicab, bus or transfer wagon, or for the care and delivery of baggage or other thing, or for any such person soliciting such patronage to go upon any railroad platform or within fifty (50) feet of any railroad train, while same is standing at its usual stopping place; nor shall such person crowd the ticket or other offices of any railroad or other company or corporation, engaged in the carrying of passengers or freight, so as to annoy, inconvenience or otherwise interfere with the traveling public, or the business of such railroad, company or corporation. (1985 Code, § 18-6)

16-407. Maintenance of order, etc., at depots. On arrival and departure of the railroad trains at the depots within the city, it shall be the duty of some member of the police force to be present and preserve order and keep doorways and passageways in and above the depot cleared of all persons not on business, or not properly there; and any person refusing to obey such officer may be by him arrested and brought before the city judge. (1985 Code, § 18-7)

16-408. Children loitering about depots, etc. It shall be unlawful for the parents or guardians of children or wards under fourteen (14) years of age to permit such children or wards to loiter around, in or about any railroad depot, track or similar place within the city, without a guardian or protector. It shall be the duty of all police officers of the city to take immediate charge of such children or wards and return them to their homes, and promptly arrest the parents or guardian of such children, and bring them before the city judge. (1985 Code, § 18-8)

CHAPTER 5

SMALL WIRELESS COMMUNICATION FACILITIES IN THE PUBLIC RIGHT-OF-WAY

SECTION

16-501. Definitions. The following definitions are strictly intended for the purpose of the wireless communication provisions herein. Where definitions duplicate or conflict with other city code or zoning code definitions, the following definitions shall apply to small wireless communication applications only.

(1) "Aesthetic plan" means any publicly available written resolution, regulation, policy, site plan, or approved plat establishing generally applicable aesthetic requirements within the city or designated area within the city. An aesthetic plan may include a provision that limits the plan's application to construction or deployment that occurs after adoption of the aesthetic plan. For purposes of this part, such a limitation is not discriminatory as long as all construction or deployment occurring after adoption, regardless of the entity constructing or deploying, is subject to the aesthetic plan.

(2) "Administrative review" means ministerial review of an application by the authority relating to the review and issuance of a permit, including review by the appropriate city's administration, development services department and public works department staff to determine whether the issuance of a permit is in conformity with the applicable provisions of this chapter.

(3) "Antenna" means communications equipment that transmits and/or receives electromagnetic radio frequency signals used in the provision of wireless services. This definition does not apply to broadcast antennas, antennas designed for amateur radio use, or satellite dishes for residential or household purposes.

(4) "Applicable codes" means uniform building, fire, safety, electrical, plumbing, or mechanical codes adopted by a recognized national code organization to the extent such codes have been adopted by the authority, including any amendments adopted by the authority, or otherwise are applicable in the jurisdiction.

(5) "Applicant" means any person who submits an application under this chapter.

(6) "Application" means a written request, on a form provided by the authority, for a permit to deploy or colocate small wireless facilities in the ROW.

(7) "Authority" means the City of Johnson City or any agency, subdivision or any instrumentality thereof.

(8) "Batch application" applications for multiple facilities submitted simultaneously by a single provider.

(9) "City" means the City of Johnson City or any agency, subdivision or any instrumentality thereof.

(10) "Colocate" means to install or mount a small wireless facility in the public ROW on an existing support structure, an existing tower, or on an existing pole/PSS to which a small wireless facility is attached at the time of the application. "Colocation" has a corresponding meaning.

(11) "Communications facility" means, collectively, the equipment at a fixed location or locations within the public ROW that enables communications services, including:

(a) Radio transceivers, antennas, coaxial, fiber-optic or other cabling, power supply (including backup battery), wireless facilities, and comparable equipment, regardless of technological configuration; and

(b) All other equipment associated with any of the foregoing. A communications facility does not include the pole/PSS, tower or support structure to which the equipment is attached.

(12) "Communications service" means cable service, as defined in 47 U.S.C. § 522(6); broadband service, as defined in 47 U.S.C. § 153(24); or telecommunications service, as defined in 47 U.S .C. § 153(53).

(13) "Communications service provider" means a cable operator as defined in 47 U.S.C. § 522(5), a telecommunications carrier as defined in 47 U.S.C. § 153(51), a provider of information service as defined in 47 U.S.C. § 153(24), a video service provider as defined in Tennessee Code Annotated, § 7-59-303, or a wireless provider;

(14) "Decorative pole" means a pole that is specially designed and placed for aesthetic purposes. (see Figures 5, 6, & 7)

(15) "Discretionary review" means review of an application by the authority relating to the review and issuance of a permit that is other than an administrative review.

(16) "Facility height" means the height of a PSS, in combination with associated wireless facility, shall be the vertical distance from the highest point of the wireless facility and its PSS to either

(a) The surface grade at the base of the PSS or

(b) The surface grade of the nearest adjacent street, whichever is higher.

(17) "Fee" means a one (1) time, non-recurring charge.

(18) "FCC" means the Federal Communications Commission of the United States.

(19) "Historic district" means a property or area zoned as a historic district or zone pursuant to Tennessee Code Annotated, § 13-7-404;

(20) "Laws" means, collectively, any and all federal, state, or local law, statute, common law, code, rule, regulation, order, or ordinance.

(21) "Ordinary maintenance and repair" means inspections, testing and/or repair that maintain functional capacity, aesthetic and structural integrity of a communications facility and/or the associated support structure or pole/PSS, that does not require blocking, damaging or disturbing any portion of the public ROW.

(22) "Period light" means a style of lighting fixture designed to replicate the style of light used in the city's downtown historic district while also meeting the city's standards for illumination.

(23) "Permit" means a written authorization (in electronic or hard copy format) to install, at a specified location(s) in the public row, a communications facility, tower or a pole to support a communications facility.

(24) "Permittee" means an applicant that has received a permit under this chapter.

(25) "Person" means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including a governmental entity.

(26) "Pole" means a legally constructed pole, such as a utility, lighting, traffic, or similar pole made of wood, concrete, metal or other material, located or to be located within the public right-of-way. A pole does not include a tower and does not include a structure that supports electric transmission lines (Fig 1).

Fig. 1 *Transmission Lines*

(27) "Potential support structure for a small wireless facility" or "PSS" means a pole or other structure (Fig 3) used for wireline communications, electric distribution (Fig 2), lighting, traffic control, signage, or a similar function, including poles installed solely for the co-location of a small wireless facility. When "PSS" is modified by the term "new," then "new PSS" means a PSS that does not exist at the time the application is submitted, including, but not limited to, a PSS that will replace an existing pole. The fact that a structure is a PSS does not alone authorize an applicant to colocate on, modify, or replace the PSS until an application is approved and all requirements are satisfied pursuant to this part;

Fig. 2 *Distribution Lines*

(28) "Provider" means a communications service provider or a wireless services provider, and includes any person that owns and/or operates within the public ROW any communications facilities, wireless

Fig. 3 *Examples of Potential Support Structures / PSSs*

facilities, poles built for the sole or primary purpose of supporting communications facilities, or towers.

(29) "Public right-of-way" or " public ROW" means the area on, below, or above property that has been designated for use as or is used for a public roadway, highway, street, sidewalk, alley or similar purpose, and for purposes of this chapter shall include public utility easements, but only to the extent the authority has the authority to permit use of the area or public utility easement for communications facilities or poles, towers and support structures that support communications facilities. The term does not include a federal interstate highway.

(30) "Public utility easement" means, unless otherwise specified or restricted by the terms of the easement, the area on, below, or above a property in which the property owner has dedicated an easement for use by utilities. Public utility easement does not include an easement dedicated solely for authority use or where the proposed use by the provider is inconsistent with the terms of any easement granted to the authority.

(31) "Replace" or "Replacement" means, in connection with an existing pole, support structure, to replace (or the replacement of) same with a new structure, substantially similar in design, size and scale to the existing structure and in conformance with this chapter and any other applicable authority code, in order to address limitations of the existing structure to structurally support co-location of a communications facility.

(32) "Small wireless facility" means a wireless facility that meets both of the following qualifications:

(a) Each antenna could fit within an enclosure of no more than six (6) cubic feet in volume; and

(b) All other wireless equipment associated with the antenna, including the provider's preexisting equipment, is cumulatively no more than twenty-eight (28) cubic feet in volume regardless of whether the facility is ground-mounted or pole-mounted. For purposes of this section "other wireless equipment" does not include an electric meter, concealment element, telecommunications demarcation box, grounding equipment, power transfer switch, cut-off switch, or a vertical cable run for the connection of power and other services; and "small wireless facility" includes a micro wireless facility;

(33) "Staff' means employees of the City of Johnson City responsible for the administration of requests associated with this ordinance.

(34) "State" means the State of Tennessee.

(35) "Support structure" means a structure in the public ROW to which a wireless facility is attached at the time of the application.

(36) "TDOT" means the Tennessee Department of Transportation.

(37) "Tower" means any structure in the public ROW built for the sole or primary purpose of supporting a wireless facility. A tower does not include a pole or a support structure.

(38) "Wireless facility" means the equipment at a fixed location or locations in the public row that enables wireless services. The term does not include:

(a) The support structure, tower or pole on, under, or within which the equipment is located or colocated; or

(b) Coaxial, fiber-optic or other cabling that is between communications facilities or poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna. A small wireless facility is one type of a wireless facility.

(39) "Wireless services" means any wireless services using licensed or unlicensed spectrum, whether at a fixed location or mobile, provided to the public.

(40) "Wireless services provider" means a person who provides wireless services. (as added by Ord. #4695-19, Aug. 2019 ***Ch12_6-20-20***)

16-502. Purpose and scope. (1) The purpose of this chapter is to provide policies and procedures for the placement of small wireless facilities upon properly-permitted facilities within covered areas of the City of Johnson City.

(2) It is the intent of this chapter to establish uniform standards including, but not limited to:

(a) Prevention of interference with the use of streets, sidewalks, alleys, traffic or light poles, and other public ways and places;

(b) Prevention of visual and physical obstructions and other conditions that are hazardous to vehicular and pedestrian traffic;

(c) Prevention of interference with other facilities and operations of facilities lawfully located in covered areas or public property;

(d) Preservation of the character of neighborhoods where facilities are installed;

(e) Preservation of the character of historic structures, or historic areas, including but not limited to structures or areas listed on the National Register of Historic Places or locally designated historic districts; and

(f) Facilitation of the rapid deployment of small wireless facilities to provide the citizens with the benefits of advanced wireless services. (as added by Ord. #4695-19, Aug. 2019 ***Ch12_6-20-20***)

16-503. Permitted use, application requirements, and fees.

(1) Permitted use. The following uses within the public ROW shall be permitted uses.

(a) Colocation of a small wireless facility that conforms with all standards including the design standards of § 16-505(1)(c).

(b) Modification of a PSS/pole or support structure or replacement of a pole for colocation of a communications facility where the modification or replacement conforms with all standards including the design standards of subsection § 16-505(1)(c).

(c) New PSS/poles that receive proper administrative approval and conform with all standards including the design standards of § 16-505(1)(c).

(d) Construction of a communications facility, other than those set forth in this ordinance, involving the installation of coaxial, fiber-optic or other cabling, that is installed underground or aboveground between two or more existing PSS/poles or an existing PSS/pole and an existing tower and/or existing support structure, and related equipment and appurtenances.

(2) Permit required. No person may construct, install, and/or operate wireless facilities that occupy the right-of-way without first filing an application and obtaining a small wireless facility permit from the city. Any small wireless facility permit shall be reviewed, issued and administered in a non-discriminatory manner, shall be subject to such reasonable conditions as the city may from time to time establish for effective management of the right-of-way, and otherwise shall conform to the requirements of this chapter and applicable law.

(3) Compliance with permit. (a) Policies and procedures. The city is authorized to establish such written policies and procedures, consistent with this chapter, as the city reasonably deems necessary for the implementation of this chapter.

(b) Police powers. The city, by granting any permit or taking any other action pursuant to this chapter, does not waive, reduce, lessen or impair the lawful police powers vested in the city under applicable federal, state and local laws and regulations.

(c) All construction practices and activities shall be in accordance with the permit and approved final plans and specifications. The authority and its representatives shall be provided access to the work site and such further information as they may require to ensure compliance with such requirements. All work that does not comply with the permit, the approved plans and specifications for the work, or the requirements of this chapter, shall be removed at the sole expense of the permittee. The authority may stop work in order to assure compliance with the provision of this chapter.

(4) Emergency work. Notwithstanding the foregoing, in the event of an emergency, a provider or its duly authorized representative may work in the public ROW prior to obtaining a permit, provided that the provider shall attempt to contact the authority prior to commencing the work and shall apply for a permit as soon as reasonably possible, but not later than the next business day after commencing the emergency work. For purposes of this subsection, an

"emergency" means a circumstance in which immediate repair to damaged or malfunctioning facilities is necessary to restore lost service or prevent immediate harm to persons or property.

(5) Effect of permit. A permit from the authority authorizes an applicant to undertake only the activities in the public ROW specified in the application and permit, and in accordance with this chapter and any general conditions included in the permit. Unless otherwise expressly stated, a permit does not authorize attachment to or use of existing PSS/poles, towers, support structures or other structures in the public ROW; a permittee or provider must obtain all necessary approvals from the owner of any PSS/pole, tower, support structure or other structure prior to any attachment or use. A permit does not create a property right or grant authority to the applicant to interfere with other existing uses of the public ROW.

(6) Other permits needed. In addition to obtaining a permit for installation of a communications facility, PSS/poles built for the sole or primary purpose of supporting communications facilities, or towers in the public ROW, an applicant must obtain all other required permits, including but not limited to: building permits, electrical permits, TDOT permits, etc.

(7) No substitute for other required permissions. No small wireless facility permit includes, means, or is in whole or part a substitute for any other permit or authorization required by the laws and regulations of the city for the privilege of transacting and carrying on a business within the 2 or any permit or agreement for occupying any other property of the city.

(8) No waiver. The failure of the city to insist on timely performance or compliance by any permittee holding a small wireless facility permit shall not constitute a waiver of the city's right to later insist on timely performance or compliance by that permittee or any other permittee holding such small wireless facility permit. The failure of the city to enforce any provision of this chapter on any occasion shall not operate as a waiver or estoppel of its right to enforce any provision of this chapter on any other occasion, nor shall the failure to enforce any prior ordinance or city charter provision affecting the right-of-way, any wireless facilities, or any user or occupant of the right-of-way act as a waiver or estoppel against enforcement of this chapter or any other provision of applicable law.

(9) Safe condition. The provider shall, at its sole cost and expense, keep and maintain its communications facilities, PSS/poles, support structures and towers in the public row in a safe condition, and in good order and repair. If the authority determines communications facilities are in disrepair or the appearance is not kept in a satisfactory manner, the authority may require maintenance or removal of the communications facilities.

(10) Permit duration. Any small wireless facility permit for construction issued under this article shall be valid for a period of ninety (90) days after issuance, provided that the ninety (90) day period may be extended for up to an additional nine (9) months upon written request of the applicant (made prior to

the end of the initial ninety (90) day period) if the failure to complete construction is as a result of circumstances beyond the reasonable control of the applicant.

(11) Ordinary maintenance and repair. A small wireless facility permit shall not be required for ordinary maintenance and repair. The provider or other person performing the ordinary maintenance and repair shall obtain any other permits required by applicable laws and shall notify the authority in writing at least ten (10) business days prior to performing the ordinary maintenance and repair.

(12) Small wireless facility permit applications required information. The application shall be made by the provider or its duly authorized representative and shall contain the following:

(a) The applicant's name, address, telephone number, and e-mail address, including emergency contact information for the applicant.

(b) The names, addresses, telephone numbers, and e-mail addresses of all consultants, contractors and subcontractors, if any, acting on behalf of the applicant with respect to the filing of the application or who may be involved in doing any work on behalf of the applicant.

(c) A description of the proposed work and the purposes and intent of the proposed facility sufficient to demonstrate compliance with the provisions of this chapter. The applicant shall state whether the applicant believes the proposed work is subject to administrative review or discretionary review.

(d) A site plan for each proposed location with a diagram or engineering drawing depicting the design for installation of the small wireless facility with sufficient detail for the city to determine that the design of the installation and any new PSS or any modification of a PSS is consistent with all generally applicable safety and design requirements, including the requirements of the Manual on Uniform Traffic Control Devices.

(e) The location of the site(s), including the latitudinal and longitudinal coordinates of the specific location of the site(s) using WGS84 as the coordinate system of reference with coordinates specified in decimal degrees to no less than three (3) significant digits or provide digitized spatial data (shape files) of the exact point of the proposed location.

(f) If applicable, the identification of any third party upon which a PSS the applicant intends to colocate and a copy of the authorization for use of the property from the PSS/pole, tower or support structure owner on or in which the communications facility will be placed or attached. If authorization is not complete at time of application, the application may proceed, however the authorization information shall be

provided within the given application review time and before final approval can be issued.

(g) The applicant's identifying information and the identifying information of the owner of the small wireless facility and certification by the applicant or the owner that such person agrees to pay applicable fees and rates, repair damage, and comply with all nondiscriminatory and generally applicable ROW requirements for deployment of any associated infrastructure that is not a small wireless facility and the contact information for the party that will respond in the event of an emergency related to the small wireless facility

(h) The applicant's certification of compliance with surety bond, insurance, or indemnification requirements (as set forth in subsections § 16-505(3)(h) and (i) below); rules requiring maintenance of infrastructure deployed in ROW; rule requiring relocation or timely removal of infrastructure in ROW no longer utilized; and any rules requiring relocation or repair procedures for infrastructure in ROW under emergency conditions (as set forth in subsections § 16-503(4) and (5)(3)(f), if any, that the city imposes on a general and non-discriminatory basis upon entities that are entitled to deploy infrastructure in ROW no longer utilized; and any rules requiring relocation or repair procedures for infrastructure in ROW under emergency conditions, if any, that the city imposes on a general and nondiscriminatory basis upon entities that are entitled to deploy infrastructure in the ROW;

(I) The applicant's certification that the proposed site plan and design plans meet or exceed all applicable engineering, materials, electrical, and safety standards, including all standards related to the structural integrity and weight-bearing capacity of the PSS/pole and small wireless facility. Those standards relevant to engineering must be certified by a licensed professional engineer.

(j) To the extent the proposed facility involves colocation on a PSS/pole, tower or support structure, a structural report performed by a duly licensed engineer evidencing that the PSS/pole, tower or support structure will structurally support the colocation (or that the PSS/pole, tower or support structure will be modified to meet structural requirements) in accordance with applicable codes.

(k) A statement that all wireless facilities shall comply with all applicable codes.

(l) Detailed construction drawings regarding the proposed facility; and

(m) For any new above-ground facilities, accurate visual depictions or representations, if not included in the construction drawings.

(13) Proprietary or confidential information in application. Applications are public records that may be made publicly available pursuant to the

Tennessee Public Records Act (Tennessee Code Annotated, § 10-7-101 et seq.). Notwithstanding the foregoing, applicant may designate portions of its application materials that it reasonably believes contain proprietary or confidential information as "proprietary" or "confidential" by clearly marking each portion of such materials accordingly, and the authority shall treat the information as proprietary and confidential, subject to the Tennessee Public Records Act (Tennessee Code Annotated, § 10-7-101, et seq.) and the authority's determination that the applicant's request for confidential or proprietary treatment of application materials is reasonable. The authority shall not be required to incur any costs to protect the application materials from disclosure, other than the authority 's routine procedures for complying with the Tennessee Public Records Act (Tennessee Code Annotated, § 10-7 -101 et seq.).

(14) Batch application. An applicant may simultaneously submit an application for multiple small wireless facilities in a single application. A batch application may include not more than twenty (20) applications for small wireless facilities, or may file a single, consolidated permit application covering such communications facilities, provided that the proposed communications facilities are to be deployed on the same type of structure using similar equipment and within an adjacent, related geographic area of the authority. If the applicant files a consolidated application, the applicant shall pay the application fee as stated in § 16-503(20). Batch applications require a pre-application meeting with the city's appropriate development services department and public works department staff.

(15) Multiple permit applications at same location. If the city receives multiple applications seeking to deploy or colocate small wireless facilities at the same location in an incompatible manner, then the city may deny the later filed application.

(16) Approval or denial of application; response time. The city responds to the applications for permit per the timelines prescribed in federal law and in Tennessee Code Annotated, § 13-24-409(b), as may be amended, regarding the approval or denial of applications, and the city shall respond to applications per the specific requirements of Tennessee Code Annotated, § 13-24-409(b)(3), as may be amended. The city reserves the right to require a surcharge as indicated in Tennessee Code Annotated, § 13-24-409(b)(7)(F)(i), as may be amended, for high-volume applicants.

(17) Bridge and/or overpass special provision. If the applicant's site plan includes any colocation design that includes attachment of any facility or structure to a bridge or overpass, then the applicant must designate a safety contact. After the applicant's construction is complete, the applicant shall provide to the safety contact a licensed professional engineer's certification that the construction is consistent with the applicant's approved design, that the bridge or overpass maintains the same structural integrity as before the construction and installation process, and that during the construction and installation process neither the applicant nor its contractors have discovered

evidence of damage to or deterioration of the bridge or overpass that compromises its structural integrity. If such evidence is discovered during construction, then the applicant shall provide notice of the evidence to the safety contact.

Any bridge on a state or federal route or state-owned structure will require review and permission from the TDOT - Structures Division. Any local bridge twenty feet (20') or greater in length must also have a review by the Tennessee Department of Transportation Structures Division and have a letter from the division stating that the proposed attachment(s) will not cause structural damage or reduce the weight limit of the bridge. Review and possible permits will be required by the appropriate railroad when any bridge owned by the railroad, any bridge over the railroad, any tunnel under the railroad any structure on railroad ROW that is proposed to have any attachments. Railroad review and possible permits will be required when there is any proposal to cross over or under any railroad ROW, whether attached to a bridge or not with any device or line of any type. Additionally all bridges within the city that have attachment proposals shall be reviewed by the public works department.

(18) Material changes. Unless otherwise agreed to in writing by the authority, any material changes to an application, as determined by the authority in its sole discretion, shall be considered a new application for purposes of the time limits set forth in § 16-504, unless otherwise provided by applicable laws.

(19) Information updates. Except as otherwise provided herein, any amendment to information contained in a permit application shall be submitted in writing to the city within thirty (30) days after the change necessitating the amendment.

(20) Fees and charges. (a) Small wireless facility permit application fee. Every applicant shall pay a one (1) time permit application fee of two hundred dollars ($200.00) at the time of your first application.

(b) Batch application. For every batch application, an applicant shall pay a permit application fee of one hundred dollars ($100.00) for each of the first five (5) small cell facilities, and fifty dollars ($50.00) each for every facility thereafter for a maximum of twenty (20) small cell facilities per application.

(c) ROW use rate. In exchange for the privilege of non-exclusive occupancy of the public ROW, the provider shall pay the authority one hundred ($100.00) per installation per year. The ROW use fee shall be due and payable within thirty (30) days of issuance of the applicable permit(s) required under this chapter and annually thereafter.

(d) Other fees. The applicant or provider shall be subject to any other generally applicable fees of the authority or other government body, such as those required for electrical permits, building permits, or other permits, which the applicant or provider shall pay as required in the applicable laws, as well as attachment fees for the use of authority owned

PSS/poles, towers, support structures, ducts, conduits or other structures in the public ROW, as set forth in attachment agreements authorizing such use.

(e) No refund. Except as otherwise provided in a small wireless facility permit, the provider may remove its communications facilities, PSS/poles or towers from the public ROW at any time, upon not less than thirty (30) days prior written notice to the authority, and may cease paying to the authority any applicable recurring fees for such use, as of the date of actual removal of the facilities and complete restoration of the public ROW. In no event shall a provider be entitled to a refund of fees paid prior to removal of its communications facilities, PSS/poles or towers. (as added by Ord. #4695-19, Aug. 2019 ***Ch12_6-20-20***)

16-504. Application review. (1) Review of small wireless facility applications. The authority shall review the application and, if the application conforms to applicable provisions of and this section, the authority shall issue a permit on nondiscriminatory terms and conditions subject to the following requirements:

(a) Within thirty (30) days of receiving an application, the authority will notify the applicant whether the application is incomplete, and identify the missing information. The applicant may resubmit the completed application within thirty (30) days without additional charge, in which case the authority shall have thirty (30) days from receipt of the resubmitted application to verify the application is complete, notify the applicant that the application remains incomplete or, in the authority's sole discretion, deny the application; and

(b) Make its final decision to approve or deny the application within thirty (30) days for a colocation, and sixty (60) days for any new structure, after the application is complete (or deemed complete in the event the authority does not notify the applicant that the application or resubmitted application is incomplete).

(c) The authority shall advise the applicant in writing of its final decision.

(2) Review deadline. If the authority fails to act on an application within the sixty (60) day review period (or within the thirty (30) day review period for an amended application), the applicant may provide notice that the time period for acting has lapsed and may pursue final approval.

(3) Compensation. Every permit shall include as a condition the applicant's agreement to pay such lawful ROW use fees, business license taxes, and administrative fees as are permitted under applicable Tennessee and federal law. The applicant shall also pay all applicable ad valorem taxes, service fees, sales taxes, or other taxes and fees as may not or hereafter be lawfully imposed on other businesses within the city.

(4) Conferences. Staff will review submissions to determine if colocation or other alternative sites will meet the needs of the applicant(s) and the City of Johnson City. Conferences will be scheduled to resolve specific issues related to requests when safety is a concern, multiple providers are requesting to locate at/near the same location, proposed locations may be affected by planned construction or the authority believes that an alternative design might allow for co location on existing infrastructure rather than installation of a new pole. The review and conference will take place within the given time constraints of application review. (as added by Ord. #4695-19, Aug. 2019 ***Ch12_6-20-20***

16-505. Requirements for small wireless facilities in the right-of-way.

(1) Administrative review. Pursuant to § 16-503, the authority shall perform an administrative review of permit applications according to the following location, design, and installation standards:

(a) Public ROW construction and installation requirements.

(I) The authority shall not issue a permit unless the applicant, or a provider on whose behalf the applicant is constructing communications facilities, PSS/poles or towers, has received all other applicable permits.

(b) Location of new facilities.

(i) The provider shall not locate or maintain its communications facilities, PSS/poles and towers so as to unreasonably interfere with the use of the public ROW by the authority, by the general public or by other persons authorized to use or be present in or upon the public ROW.

(ii) Pedestrian and vehicular paths shall not be impeded.

(iii) The provider shall not locate or maintain its communication facilities, PSS/poles and towers within a sight distance triangle as described in Article IV (4.11 - vision clearance) of the zoning code

(iv) The provider shall not locate or maintain its communication facilities, PSS/poles and towers so as to block the visibility of traffic control devices (signal heads, video detection cameras, preemption receivers, or signs). The equipment shall not block the access to traffic control equipment or block the view of traffic from existing traffic surveillance cameras.

(v) The provider shall refer to the "Manual on Uniform Traffic Control Devices: for Streets & Highways" for offsets/setbacks and the American Association of State Highway Transportation Officials (AASHTO) Design Guidelines for line of sight requirements based on speed limit and other factors at each proposed location. These requirements will be applied in locating

above ground PSS/poles over eighteen inches (18") in diameter and equipment cabinets over two feet (2') in height.

(vi) Identification requirements. For the purpose of georeferencing, each pole shall provide a unique identifier, as determined by the Authority, placed in a visible location.

(vii) Facilities must meet the National Electric Code standards for separation from other utilities

(c) Design standards/aesthetic plan. Unless otherwise specifically stated below, in an attempt to blend into the built environment, all small wireless facilities, new or modified utility poles, PSSs for the colocation of small wireless facilities, and associated equipment shall be consistent in size, mass, shape, and color to similar facilities and equipment in the immediate area, and its design for the PSS shall meet the adopted aesthetic plan, subject to following requirements:

(i) Colocation. Colocation is recommended, when possible except in the case of an existing decorative pole/period light. Should the wireless provider not be able to co locate, the wireless provider shall provide justification in the application.

(ii) Replacing an existing city-owned PSS. City-owned PSS may be replaced for the colocation of small wireless facilities. When replacing a PSS, any replacement PSS must reasonably conform to the design aesthetics of a PSS that is appropriate for that location, and must continue to be capable of performing a greater function or, at a minimum, the same function in a comparable manner as it performed prior to replacement.

(A) When replacing a city-owned PSS, the replacement PSS becomes the property of the city, subject to Tennessee Code Annotated, § 13-24-408(g), as may be amended.

(B) The city reserves the right to require a streetlight on the new PSS.

(iii) New poles. Any new PSS that is not a colocation or a replacement of an existing PSS must be approved by the city manager or his designee. New PSSs shall not be permitted to be installed in the rights-of-way in areas in which no utility poles, streetlight poles, or PSSs exist at the time of application without prior approval by the city manager or his designee.

(iv) Consistency. New small wireless facilities, antennas, and associated equipment shall conform with the design standards of the district in which it is located as listed below (see § 16-505(1)(c)(v)).

(v) Districts (see map § 16-505(1)(K)

General commercial

- Facility height:
  - Maximum ten feet (10') in height above the tallest existing PSS in place in a ROW that is located within five hundred feet (500') of the new PSS in the ROW or fifty feet (50') above ground level; whichever is greater.
  - For a PSS installed in a residential neighborhood, forty feet (40') above ground level.
- Pole requirements: Pole type shall be approved by the director of public works.
- Pole diameter: Pole diameter shall be approved by the director of public works.
- Light requirements: Light type shall be approved by the director of public works.
- Size: Antenna fit within an enclosure of no more than six (6) cubic feet in volume and all other wireless equipment associated with the antenna, including the provider's preexisting equipment, is cumulatively no more than twenty-eight (28) cubic feet in volume.
- Color: Pole color shall be approved by the director of public works.

<u>General residential</u>

- Facility height: Twenty-five feet (25') maximum.
- Pole requirements: Decorative pole and base or tapered steel pole.
- Pole diameter: Max. six inches (6") at height of five foot (5') on pole.
- Light requirements: Full cut-off, LED placed at height of fifteen feet (15').
- Size: Antenna fit within an enclosure of no more than six (6) cubic feet in volume and all other wireless equipment associated with the antenna, including the provider's preexisting equipment, is cumulatively no more than twenty-eight (28) cubic feet in volume.
- Color: Black powder-coated historic residential.
- Facility height: Twenty-five feet (25') maximum.
- Pole requirements: Decorative pole and base.
- Pole diameter: Max. six inches (6") at height of five foot (5') on pole.
- Light requirements: Period-style light at height of fifteen feet (15').
- Size: Antenna fit within an enclosure of no more than six (6) cubic feet in volume and all other wireless equipment associated with the antenna, including the provider's

preexisting equipment, is cumulatively no more than twenty-eight (28) cubic feet in volume.

- Color: "Cultural district" Green or black powder-coated.

Historic commercial

- Facility height: Twenty-five feet (25') maximum.
- Pole requirements: Decorative pole and base.
- Pole diameter: Max. six inches (6") at height of five foot (5') on pole.
- Light requirements: Period-style light at height of fifteen feet (15').
- Size: Antenna fit within an enclosure of no more than six (6) cubic feet in volume and all other wireless equipment associated with the antenna, including the provider's preexisting equipment, is cumulatively no more than twenty-eight (28) cubic feet in volume.
- Color: "Cultural district" green.

School zones and parks

- Facility height: Twenty-five feet (25') maximum.
- Pole requirements: Decorative pole and base or tapered steel pole.
- Pole diameter: Max. six inches (6") at height of five foot (5') on pole.
- Light requirements: Period-style light at height of up to twenty feet (20').
- Size: Antenna fit within an enclosure of no more than six (6) cubic feet in volume and all other wireless equipment associated with the antenna, including the provider's preexisting equipment, is cumulatively no more than twenty-eight (28) cubic feet in volume.
- Color: Black powder-coated.

(d) Overlapping districts. If proposed location is located within multiple, overlapping districts, the stricter requirements will rule.

(e) Concealment and undergrounding measures.

(i) All conduit, wires, and other wireless hardware shall be located internal to the pole.

(ii) Unless otherwise agreed to in writing by the authority or otherwise required by applicable laws, whenever any existing electric utilities or communications facilities are located underground within a public ROW, the provider with permission to occupy the same portion of the public ROW shall locate its communications facilities underground at its own expense.

(iii) Compliance with underground facilities. Subject to waivers as determined by the Johnson City Regional Planning Commission, an applicant must comply with existing requirements

to place all electric, cable, and communications facilities underground in a designated area of a ROW, as determined by the city's subdivision regulations.

(iv) Limits on use of ground-mounted equipment for wireless facilities. Ground mounted equipment, limited to housing equipment and other supplies in support of the operation of the wireless facility, shall be placed in an underground vault. Where above-ground placement is necessary, a conference and approval by the authority is required. Stealth design shall be employed for above-ground equipment.

(f) Attachment to and replacement of decorative poles.

(i) Notwithstanding anything to the contrary in this chapter, an applicant may not install a small wireless facility on an existing decorative pole.

(ii) Notwithstanding anything to the contrary in this chapter, an applicant may not replace a decorative pole with a new decorative pole unless the authority has determined, in its sole discretion, that each of the following conditions has been met:

- The application qualifies for issuance of a permit under this chapter.
- The attachment and/or the replacement pole is in keeping with the aesthetics of the decorative pole/period light; and

(iii) notwithstanding anything to the contrary in this chapter, an applicant may not, replace a decorative pole with a new decorative pole, or install new above-ground communications facilities in the Downtown Historic District or the Tree Streets Historic Conservation District unless the authority has determined, in its sole discretion, that each of the following conditions has been met:

- The application qualifies for issuance of a permit under the chapter;
- The attachment and/or the replacement pole is in keeping with the aesthetics and character of the district;
- The attachment meets the secretary of the interior standards and
- The proposed support structure and wireless facility receives a certificate of appropriateness from the historic zoning commission.

(g) Period lights. Design must replicate existing lighting by district according to § 16-505(1)(c)(v) (see Figures 4 - 7 below).

(h) Limits on number and location of support structures that may be installed or used.

(i) Where sufficient pedestrian lighting is present, no new freestanding support structures shall be allowed

(ii) Where sufficient pedestrian lighting is present, only replacement structures shall be allowed which include an appropriately designed light pole/fixture.

(iii) Where insufficient pedestrian lighting exist, a new pedestrian-scale decorative light pole may be considered for installation as a small cell support structure.

(i) Aesthetic approach for different types of facilities. Colocations on existing structures will use a design that limits visual clutter and conceals conduit, mounting brackets, and other hardware. No facilities or associated equipment shall be allowed to extend more than twenty-four inches (24") horizontally from a PSS.

(j) Additional criteria regarding the location, type, and/or design of small cell facilities and utility poles shall be subject to change. All changes shall be made available to the public for thirty (30) days prior to their effective date. In no case, shall any standards be retroactive. Facilities approved for which small wireless facility permits have been issued prior to the effective date of a new guideline shall not be affected.

Fig. 4 *Example of Period Light with Small Wireless Facility. Imagery courtesy of LCD Infrastructure*

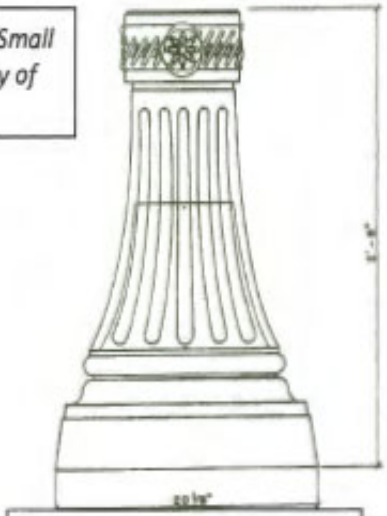
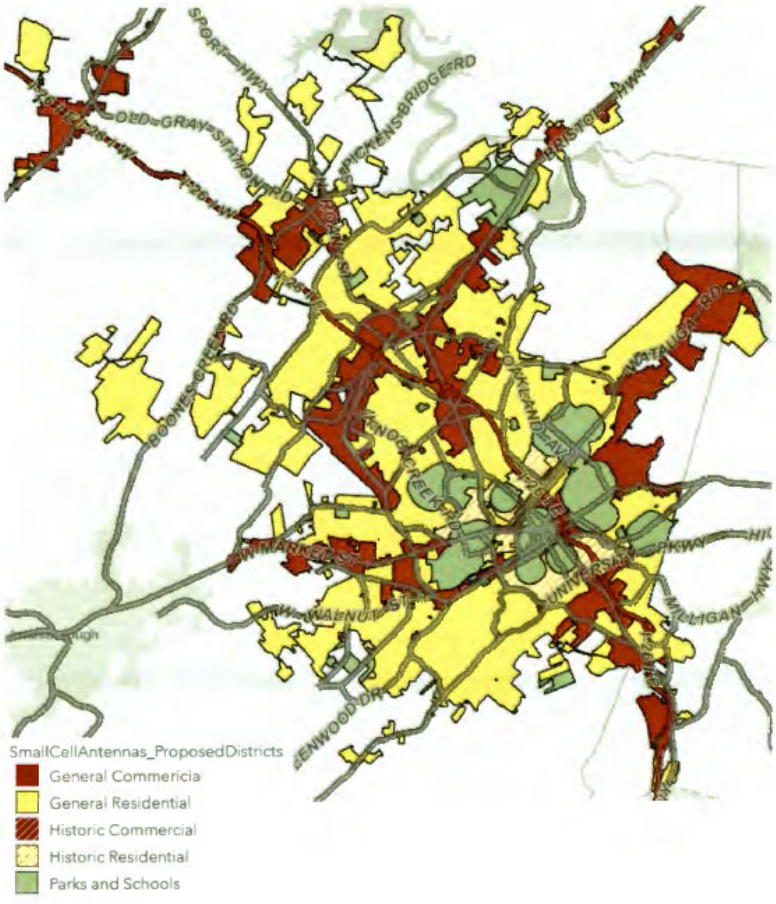


Fig. 5 *Base of Decorative Pole*

Fig. 6 *Example of Cultural District Green Decorative Pole with Period Light*

Fig 7 *Example of Black Decorative Pole with Period Light*

(k) Small cell design standards district map.



(2) Discretionary review. Unless otherwise provided in this chapter, approval from the Johnson City Regional Planning Commission shall be required for:

(a) Any wireless provider that seeks to construct or modify a PSS or wireless facility that is determined to not comply with the height, diameter, design, color standards and expectations set forth in subsection § 16-505(1).

(3) Construction standards. In performing any work in, or affecting the, public ROW, the provider, and any agent or contractor of the provider, shall comply with the provisions of this chapter and all other applicable municipal ordinances, and shall conform to the requirements of the following publications, as from time to time amended: The Rules of Tennessee Department of Transportation Right-of-Way Division, the National Electrical Code, and the National Electrical Safety Code, AASHTO Design Guidelines and Manual Uniform Traffic Control Devices, as might apply.

(a) General safety and compliance with laws. The permittee shall employ due care during the installation, maintenance or any other work in the ROW, and shall comply with all safety and public ROW-protection requirements of applicable laws, applicable codes, and any generally applicable authority guidelines, standards and practices, and any additional commonly accepted safety and public ROW-protection standards, methods and devices (to the extent not inconsistent with applicable laws).

(b) Interference. The permittee shall not interfere with any existing facilities or structures in the public ROW, and shall locate its lines and equipment in such a manner as not to interfere with the usual traffic patterns (vehicular or pedestrian) or with the rights or reasonable convenience of owners of property that abuts any public ROW. The city's public works department must also be notified and concur with lane closures on all streets, including state routes.

(c) Utility locates. Before beginning any excavation in the Public ROW, the Permittee shall comply with "Tennessee 811 - CALL BEFORE YOU DIG" requirements.

(d) Restoration requirements. (i) The provider, or its agent or contractor, shall restore, repair and/or replace any portion of the public ROW that is damaged or disturbed by the provider's communications facilities, PSS/poles, towers or work in or adjacent to the public ROW. Restoration of pavement, sidewalks landscaping, grass, etc. shall be in accordance with the right of way excavation permit application.

(ii) If the provider fails to timely restore, repair or replace the public ROW as required in this subsection, the authority or its contractor may do so and the provider shall pay the authority's costs and expenses related to such work, including any delay

damages or other damages the authority incurs arising from the delay.

(e) Traffic control. Unless otherwise specified in the permit, the permittee shall erect a barrier around the perimeter of any excavation and provide appropriate traffic control devices, signs and lights to protect, warn and guide the public (vehicular and pedestrian) through the work zone. The manner and use of these devices shall be described within a traffic control plan in accordance with the Uniform Manual of Traffic Control Devices. The permittee shall maintain all barriers and other traffic control and safety devices related to an open excavation until the excavation is restored to a safe condition or as otherwise directed by the authority.

(f) Removal, relocation and abandonment. (i) Within thirty (30) days following written notice from the authority, the provider shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any of its communications facilities, PSS/poles, support structures or towers within the public ROW or utility easement, including relocation of above-ground communications facilities underground (consistent with the provisions of this chapter), whenever the authority has determined, in its sole discretion, that such removal, relocation, change or alteration is necessary for the construction, repair, maintenance, or installation of any authority improvement, the operations of the authority in, under or upon the public ROW, or otherwise is in the public interest. The provider shall be responsible to the authority for any damages or penalties it may incur as a result of the provider's failure to remove or relocate communications facilities, PSS/poles, support structures or towers as required in this subsection.

(ii) The authority retains the right and privilege to cut or move any communications facility, PSS/pole, support structure or tower located within the public row of the authority, as the authority may determine, in its sole discretion, to be necessary, appropriate or useful in response to any public emergency. If circumstances permit, the authority shall notify the provider and give the provider an opportunity to move its own facilities prior to cutting or removing the communications facility, PSS/pole, support structure or tower. In all cases, the authority shall notify the provider after cutting or removing the communications facility, PSS/pole, support structure or tower as promptly as reasonably possible.

(iii) A provider shall notify the authority of abandonment of any communications facility, PSS/pole, support structure or tower at the time the decision to abandon is made, however, in no

case shall such notification be made later than thirty (30) days prior to abandonment. Following receipt of such notice, the provider shall remove its communications facility, PSS/pole, support structure or tower at the provider's own expense, unless the authority determines, in its sole discretion, that the communications facility, PSS/pole, support structure or tower may be abandoned in place. The provider shall remain solely responsible and liable for all of its communications facilities, PSS/poles, support structures and towers until they are removed from the public row unless the authority agrees in writing to take ownership of the abandoned communications facilities, PSS/poles, support structures or towers.

(iv) If the provider fails to timely protect, support, temporarily or permanently disconnect, remove, relocate, change or alter any of its communications facilities, PSS/poles, support structures or towers or remove any of its abandoned communications facilities, PSS/poles, support structures or towers as required in this subsection, the authority or its contractor may do so and the provider shall pay all costs and expenses related to such work, including any delay damages or other damages the authority incurs arising from the delay.

(g) As-built maps. As the city controls and maintains the right-of-way for the benefit of its citizens, it is the responsibility of the city to ensure that such public right-of-way meet the highest possible public safety standards. Upon request by the city and within thirty (30) days of such a request, a permittee shall submit to the public works department (or shall have otherwise maintained on file with the department) as-built maps and engineering specifications depicting and certifying the location of all its existing small wireless facilities within the right-of-way, provided in standard electronic or paper format in a manner established by the director of public works, or his or her designee. Permittees must also submit shape files for location specific data to the city's geographic information system division. Such maps/data are, and shall remain, confidential documents and are exempt from public disclosure under the Tennessee Public Records Act (Tennessee Code Annotated, § 510-7-101, et seq.) to the maximum extent of the law. After submittal of the as-built maps as required under this section, each permittee having small wireless facilities in the city right-of-way shall update such maps as required under this chapter upon written request by the city.

(h) Insurance requirements. Each permittee shall, at all times during the entire term of the small wireless facilities permit, maintain and require each contractor and subcontractor to maintain insurance with a reputable insurance company authorized to do business in the

State of Tennessee and which has an A.M. Best rating (or equivalent) no less than "A" indemnifying the city from and against any and all claims for injury or damage to persons or property, both real and personal, caused by the construction, installation, operation, maintenance or removal of permittee's wireless facilities in the rights-of-way. The amounts of such coverage shall be not less than the following:

(i) Worker's compensation and employer's liability insurance. Tennessee statutory requirements.

(ii) Comprehensive general liability. Commercial general liability occurrence form, including premises/operations; independent contractors contractual liability; products/completed operations; X, C, U coverage; and personal injury coverage with limits no less than one million dollars ($1,000,000.00) per occurrence, combined single limit and ten million dollars ($10,000,000.00) in the aggregate.

(iii) Commercial automobile liability. Commercial automobile liability coverage for all owned, non-owned and hired vehicles involved in operations under this article with limits no less than one million dollars ($1,000,000.00) per occurrence combined single limit each accident.

(iv) Commercial excess or umbrella liability. Commercial excess or umbrella liability coverage may be used in combination with primary coverage to achieve the required limits of liability.

(v) The city shall be designated as an additional insured for ongoing and completed operations under each of the insurance policies required by this section except worker's compensation and employer's liability insurance. Permittee shall not cancel any required insurance policy without obtaining alternative insurance in conformance with this section. Permittee shall provide the city with at least thirty (30) days advance written notice of any material changes or cancellation of any required insurance policy or in the case of non-payment of premium, at least ten (10) days written notice of cancellation.

(vi) Permittee shall impose similar insurance requirements as identified in this section on its contractors and subcontractors.

(i) Indemnification. Each permittee, its consultant, contractor, and subcontractor, shall, at its sole cost and expense, indemnify, defend and hold harmless the city, its elected and appointed officials, employees and agents, at all times against any and all claims for personal injury, including death, and property damage arising in whole or in part from, caused by or connected with any act or omission of the permittee, its officers, agents, employees or contractors arising out of, but not limited to, the construction, installation, operation, maintenance, removal or

abandonment of permittee's wireless system or wireless facilities in the rights-of-way. Each permittee shall defend any actions or proceedings against the city in which it is claimed that personal injury, including death, or property damage was caused by the permittee's construction, installation, operation, maintenance or removal of permittee's wireless system or wireless facilities in the rights-of-way. The obligation to indemnify, hold harmless and defend shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities, damages, reasonable attorney's fees, reasonable expert fees, court costs and all other reasonable costs of indemnification.

(j) Use of conduit. Permittees using space in ducts, conduits and on PSS/poles must comply with the terms of this code, unless expressly exempted by the authority.

(k) Right to inspect. With just and reasonable cause, the city shall have the right to inspect all of the small wireless facilities, including aerial facilities and underground facilities, to ensure general health and safety with respect to such facilities and to determine compliance with the terms of this chapter and other applicable laws and regulations. Any permittee shall be required to cooperate with all such inspections and to provide reasonable and relevant information requested by the city as part of the inspection.

(l) Application fees and bonds. Unless otherwise provided by applicable laws, all applications pursuant to this chapter shall be accompanied by the fees required under subsection § 16-503(20). Unless otherwise provided as part of permitting or agreed to in writing by the authority, a performance bond or other form of surety acceptable to the Authority equal to at least one hundred percent (100%) of the estimated cost of the work within the public ROW shall be provided before the applicant commences work. (as added by Ord. #4695-19, Aug. 2019 ***Ch12_6-20-20***)

16-506. <u>Violation of this chapter</u>. In the event a reasonable determination is made that a person has violated any provision of this chapter, or a small wireless facility permit, such person shall be provided written notice of the determination and the specific, detailed reasons therefor. Except in the case of an emergency, the person shall have thirty (30) days to commence to cure the violation. If the nature of the violation is such that it cannot be fully cured within such time period, the city, in its reasonable judgment, may extend the time period to cure, provided that the person has commenced to cure and is diligently pursuing its efforts to cure. If the violation has not been cured within the time allowed, the city may take all actions authorized by this chapter and/or Tennessee law and regulations. (as added by Ord. #4695-19, Aug. 2019 ***Ch12_6-20-20***)

TITLE 17

REFUSE AND TRASH DISPOSAL

CHAPTER

CHAPTER 1

MISCELLANEOUS

SECTION

17-101. Definitions. For the purpose of this chapter, the following terms, phrases, words and their derivatives shall have the meanings given in this section:

(1) "Aircraft." Any contrivance now known or hereafter invented, used or designated for navigation or for flight in the air. The word "aircraft" shall include helicopters and lighter than air dirigibles and balloons.

(2) "Ashes." All residue resulting from the combustion of coal, coke, wood or any other material or substances in domestic, industrial or commercial stoves, furnaces or boilers.

(3) "Authorized residential containers." (a) For manual waste collection only - galvanized metal or plastic containers of substantial construction with a tight, rodent proof lid having a capacity of not less

than ten (10) gallons nor more than thirty (30) gallons and weighing no more than fifty (50) pounds when full.

(b) For automated waste collection only - 65 or 95 gallon universal rollout carts as provided or sold by the City of Johnson City.

(4) "Building material." Any material such as lumber, brick, block, carpet, stone, plaster, concrete, asphalt, roofing shingles, gutters, flooring, carpeting or other substances accumulated as the result of repairs or additions to existing buildings or structures, or as the result of construction of new buildings or structures.

(5) "Bulk container." A front-end loading, enclosed, metal, dumpster-type containers having a capacity of not less than four (4) cubic yards nor greater than eight (8) cubic yards. Such containers shall have the capacity, size and be the type as specifically authorized and approved by the director of the department of public works.

(6) "Cuttings." All tree limbs, trimmings, shrubbery, etc.

(7) "Establishment." An establishment shall include all structures, businesses, and/or units located on one common ground. The director of the department of public works shall determine the appropriateness of such definition on a case-by-case basis. The owner of the common ground shall maintain final responsibility for all fees, etc., for collection services provided under this chapter.

(8) "Garbage." Putrescible animal and vegetable waste, liquid or other waste resulting from the handling, processing, preparation, cooking and consumption of food, and all cans, bottles or other containers originally used for foodstuffs.

(9) "Garden refuse." All accumulations of plants, stems, roots, vegetables and fruits remaining after harvest.

(10) "Hazardous refuse." Any chemical, compound, mixture, substance or article, which may constitute a hazard to health or may cause damage to property by reason of being explosive, flammable, poisonous, corrosive, unstable, irritating, radioactive or otherwise harmful.

(11) "Industrial waste." All wastes peculiar to industrial, manufacturing or processing plants.

(12) "Landscape debris." Any material such as dirt, soil, rock, mulch, timbers, cross ties, concrete blocks, pavers or other substances accumulated as a result of landscaping activity.

(13) "Litter." All garbage, refuse and trash and all other waste material which, if thrown, deposited or left unattended as prohibited in this chapter, tends to create a danger to public health, safety and welfare.

(14) "Newspaper." Any newspaper of general circulation as defined by general law, any newspaper duly entered with the United States Postal Service, in accordance with federal statute or regulations, any newspaper filed and recorded with any recording officer as provided by general law and any

periodical or current magazine regularly published with not less than (4) issues per year and sold to the public.

(15) "Nonresidential establishment." Any establishment except those defined under "residential establishment." Nonresidential establishments shall be divided into the following categories:

(a) Commercial. Restaurants, motels, hotels, private cemeteries, retail and wholesale business establishments and offices where a product is not manufactured;

(b) Educational facilities. All public schools and universities;

(c) Fraternal, social and professional clubs and organizations. Lodges, social clubs, labor unions, etc;

(d) Governmental. Local, state and federal governmental agencies;

(e) Industrial. All manufacturing and fabricating businesses;

(f) Multiple-family structures. Any apartment complex with four (4) or more units or any type of condominium under the Horizontal Property Act; any mobile home park with four (4) or more units and public housing;

(g) Private educational facilities. All nonpublic schools, colleges and universities;

(h) Professional. All hospitals, doctors' offices, animal hospitals, clinics, etc; and

(i) Religious. All churches, synagogues and church-operated or affiliated agencies.

(16) "Park." A park, reservation, playground, recreation center or any other public area in the city, owned or used by the city and devoted to active or passive recreation.

(17) "Private premises." Any dwelling, house, building or other structure, designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building or other structure.

(18) "Producer." Either the person responsible for the ashes, garbage, refuse, trash, industrial waste and any other waste material or the occupant of the place or building in which such is produced or in which the person responsible for such has a place of business or residence.

(19) "Public place." Any and all streets, sidewalks, boulevards, alleys or other public ways and any and all public parks, squares, spaces, grounds and buildings.

(20) "Refuse." All perishable and nonperishable solid wastes (except body wastes) including garbage, trash, industrial waste, ashes, street cleanings, dead animals and abandoned automobiles.

(21) "Residential establishments." Single or multiple-family dwelling units up to and including apartment complexes, condominiums or trailer parks of three (3) or less units.

(22) "Sanitary refuse disposal site." Any site wherein solid waste is properly disposed of, including but not limited to landfills, public incinerator plants, publicly operated convenience centers, publicly operated transfer station sites, publicly operated recycling centers, and brush burner sites operated by the city.

(23) "Trash." Nonputrescible solid wastes consisting of both combustible and noncombustible wastes such as paper, boxes, cloth, wrappings, crates, grass clippings, cuttings, leaves, glass and similar material. It shall not include bulky refuse, meaning stoves, refrigerators, water tanks, washing machines, furniture, automotive parts, tires, bedding, furnaces or similar bulky material weighing more than fifty (50) pounds and/or having a volume greater than thirty (30) gallons. Trash shall be divided into three (3) categories:

(a) Business trash. Any waste accumulations of dust, paper, cardboard, excelsior, rags or other accumulations other than garbage, household trash or industrial waste which are usually attendant to the operation of stores, offices and similar businesses;

(b) Household trash. Waste accumulations of paper, sweepings, dust, rags, bottles, cans or other matter of any kind, other than garbage which is usually attendant to housekeeping; and

(c) Yard trash. Cuttings, leaves, grass clippings, etc., resulting from normal maintenance and care of landscaped, manicured grounds and lawns, but does not include cuttings and leaves from that portion of grounds that have been left in its natural state without annual maintenance.

(24) "Vacant property." All parcels of land without any permanent dwelling or business structure or any parcels of land with a dwelling or business structure or any parcels of land with a dwelling or business structure that have remained vacant for a period of six (6) months without routine maintenance to that yard and grounds. This shall also include portions of grounds and/or yards left in their natural state. (Ord. #3985-03, March 2004)

17-102. Purpose. This chapter is determined and declared to be a sanitary measure for the protection and promotion of the health, safety and welfare of the citizens of Johnson City. (Ord. #3985-03, March 2004)

17-103. Rules and regulations. The director of the department of public works may make necessary or desirable rules and regulations that are not inconsistent with the provisions of this chapter in order to aid in its administration and in order to insure compliance and enforcement. (Ord. #3985-03, March 2004)

17-104. Business of landscaping, plant or trimmings, etc. No person shall perform any service for economic gain wherein trees or shrubbery are cut, trimmed, removed or altered and wherein an accumulation of brush, wood, vines, debris or other refuse attendant to landscaping is the result of such work or service without holding a valid license to do business in the city and without being equipped with a truck or other vehicle capable of removing said brush, wood, vines, debris or other refuse and said refuse shall be so removed by the person causing or creating its accumulation. (Ord. #3985-03, March 2004)

17-105. Carrying material; trucking foreign material. The owner, lessee or operator of every vehicle engaged in hauling any sand, gravel, dirt, stone, rock, brick, coal, limestone, limestone dust, asphalt, garbage, trash, or any material which, as a result of such a vehicle movement, may be likely to blow, fall or be scattered on or along city streets and alleys shall maintain such a vehicle in a secure condition and shall direct and supervise the loading of said vehicle in such a manner as to prevent any portion of such materials, products or substances from falling, blowing or being scattered on city streets or alleys. Nor shall garbage or other materials offensive to the sight or smell be removed or carried on or along the streets and alleys of the city except in trucks having watertight beds or boxes with proper cover. All vehicles transporting solid waste or other aforementioned material in public places shall be covered or tarped during transportation, and shall be secured to prevent such materials, products, or substances from blowing, falling, or scattering on city streets or other public places. No person shall drive or move any vehicle or truck within the city, the wheels and tires of which carry onto or deposit in any street, alley or other public place, mud, dirt, sticky substances, "litter" or foreign matter of any kind. In addition to such other penalties as may be prescribed elsewhere herein, any person violating this section shall be liable for the cost of such clean-up measures as the director of the department of public works may deem reasonably necessary, which measures said director shall cause to be performed and shall bill to the aforesaid violator at a rate to be determined by the Board of Commissioners of the City of Johnson City. (Ord. #3985-03, March 2004)

17-106. Decaying vegetables or fruits in railroad cars, etc. It shall be unlawful for any person having possession and control of any decaying or damaged vegetables or fruits to permit the same to remain in any railroad car or elsewhere within the city for twelve (12) hours after such fruit and vegetables shall be found to be in a decaying or damaged condition. If any such vegetables or fruits are not removed immediately upon notice to a dumping area previously designated as such by the director of the public works, the chief of police shall have the same removed at the cost of the person having possession of the same, and shall bill said person for that service at a rate to be determined by the board of commissioners. (Ord. #3985-03, March 2004)

17-107. Burning refuse on street, etc. It shall be unlawful for any persons to burn, or cause to be burned, rubbish on any street, alley or highway. (Ord. #3985-03, March 2004)

17-108. Throwing refuse in vacant lots, etc. It shall be unlawful for any person to throw or deposit, or cause to be thrown or deposited, any refuse or waste material in or upon lots or in any yards, or on or upon any street, alley or other public place in the city. Such material may be thrown or placed upon lots, streets and alleys only under a permit issued by the city. (Ord. #3985-03, March 2004)

17-109. Service fees. The board of commissioners shall from time to time establish by resolution all garbage, trash, service and landfill fees and any permit fees applicable to any activity under the provisions of this chapter of the code. (Ord. #3985-03, March 2004)

17-110. Exclusive collection. It is hereby declared to be the exclusive right of the City of Johnson City to engage in the collection, removing, and disposal of refuse within the corporate limits of the city. It shall be unlawful for any person other than the city or its authorized contractor to engage in the business of collecting, removing, and disposing of refuse in the city, except those private collectors specifically authorized by the city. The city shall establish rules and regulations to be adopted by the board of commissioners to govern the activities of such private collectors. This does not prohibit establishments from collecting and hauling their own refuse so long as such refuse is stored, collected and hauled as prescribed in this chapter. (Ord. #3985-03, March 2004)

17-111. Unauthorized removal of material from garbage collection and recycling containers. (1) Any and all garbage, trash, refuse or other material, of whatever nature, placed in containers utilized by the city for the purpose of collecting garbage, trash, or refuse for the purpose of disposal or recycling shall be deemed to be abandoned property, and its removal from any of said containers by any person not authorized to carry out such removal by the city manager is hereby prohibited.

(2) Any person except the lawful owner of such material who removes such material from any of the aforesaid containers without authorization of the city manager shall be guilty of a misdemeanor. (Ord. #3985-03, March 2004)

CHAPTER 2

CONTAINERS

SECTION

17-201. Required; premises kept clean. (1) All persons within the city are required to keep their premises in a clean and sanitary condition, free from the accumulation of refuse, except when stored as provided in this chapter.

(2) It shall be the duty of every person in possession, charge or control of any premises of a residential establishment and the keeper of or owner of any nonresidential establishment, where garbage or trash is created or accumulated, to keep or cause to be kept at all times containers, specified herein, for the deposit of garbage and trash generated on the premises. (Ord. #3985-03, March 2004)

17-202. Unsatisfactory containers. Containers used for the deposit of garbage, business trash and/or household trash shall be in such good condition that collection thereof shall not injure the person collecting the contents nor be unsuitable for the healthful and sanitary storage of refuse substances. The city is hereby authorized to confiscate or to remove unsatisfactory containers as determined by the director of public works from the premises of residential or nonresidential establishments that do not comply with the requirements of this article; provided, however, that the owners, or their agents or lessees, of such containers shall be duly notified of such impending action by five (5) days' notice in writing delivered to the premises on which the unsatisfactory container is located or affixed to such container deemed to be unsatisfactory. (Ord. #3985-03, March 2004)

17-203. Proximity of other personal effects. Garbage and trash shall not be stored in close proximity to other personal effects, which are not desired to be collected, but shall be reasonably separated in order that the collector can clearly distinguish between what is to be collected and what is not to be collected. Personal effects stored or placed within three (3) feet of a container or pile of trash shall be prima facie presumed to be garbage or trash. (Ord. #3985-03, March 2004)

17-204. Residential containers; storage. Lids or covers of authorized residential containers shall be kept tightly closed and watertight at all times

other than when refuse is being deposited therein or removed therefrom. Refuse may be stored for collection in the following manner:

(1) Ashes, garbage and household trash shall be stored in authorized residential containers. Furniture, appliances, and yard trash may also be separated from garbage and stored as trash.

(2) Small items of trash including household trash and grass clippings, small amounts of leaves and vines may be stored in heavy duty plastic bags, with no container exceeding fifty (50) pounds in weight when full.

(3) Leaves may be raked into piles and windrows at the curbside for collection, beginning in the fall, on a specific date established by the director of the department of public works and beginning again for a two week period in the spring, or as deemed appropriate by the city public works director. Prior to and after these dates, leaves shall be stored in the appropriate authorized residential container.

(4) Cuttings or brush, limbs and shrubbery shall be stored in neat piles. Each tree and shrubbery branch and limb shall be cut in lengths of not more than ten (10) feet and stumps, branches and limbs shall weigh no more than one hundred (100) pounds each.

(5) Items of trash too large to place in a container, with the exception of furniture and appliances shall be the responsibility of the producer and/or property owner to properly dispose.

(6) Appliances and certain other household items such as stoves, refrigerators, water tanks, washing machines, furniture, bedding and air conditioners, having a weight greater than fifty (50) pounds and/or a volume greater than thirty (30) gallons, shall be stored in a safe and secure place, and the domestic producer shall call the department of public works to notify them that the above items are ready for pickup. Collection of these items will be from curbside only. (Ord. #3985-03, March 2004)

17-205. <u>Nonresidential containers; storage</u>. Refuse produced by keepers and/or owners of nonresidential establishments shall be stored for collection in the following manner:

(1) A bulk container, as defined in § 17-101 shall be required for all nonresidential establishments producing garbage and/or trash. Such containers shall have the capacity sizes and be the type as specifically authorized and approved by the director of the department of public works. A need for more than the aforementioned number of eight (8) authorized residential containers may require at the discretion of the public works director that establishment to acquire an acceptable bulk container.

(2) The director of the department of public works may exempt nonresidential establishments from the use of bulk containers if the volume of garbage and trash does not justify such use and/or if no suitable site for a bulk container can be found. (Ord. #3985-03, March 2004)

CHAPTER 3

RESIDENTIAL COLLECTION

SECTION

17-301. Collection; frequency, placement, etc.--garbage. (1) Ashes, garbage, household trash, and containerized "yard trash" shall be collected from each residential establishment at least once a week by the city. In the event of severe winter weather or other unforeseen disaster, collection may be suspended until the following week. The director of the department of public works shall prepare schedules for regular collection of refuse.

(2) Residential collection shall be made from curbside and approved city alleys at the exact location as determined by the director of public works. Where there is no approved alley or curbside, containers shall be located as indicated by the director of the department of public works. Alley collection service may be denied to residential establishments by the director of the department of public works, if such alley is not easily accessible to the city garage truck.

(3) If two (2) or more residential establishments are located on a private road and not within a reasonable distance of a public street or alley, as determined by the director of the department of public works, collection of refuse stored in authorized residential containers may be made along the private road only if the owners(s) provides written approval for city collection trucks to travel on the private road. The city shall not be liable for any damages done to the private road as a result of normal use for ingress and egress. If approval is not granted by all owners along private drive, said owners must place containers along a public street at a location determined by the director of public works.

(4) Domestic producers of ashes, garbage and household trash shall provide sufficient container space to hold one (1) week's accumulation of refuse not to exceed eight (8)-30 gallon authorized residential containers, or three (3)-95 gallon residential containers.

(5) Residential and recycling containers shall be placed at the appropriate location as described in subsection (2) above no later than 6:00 a.m. on the day of collection and removed from curbside on the same day, after collection has occurred.

(6) The director of public works shall determine the method of solid waste collection for residential establishments. (Ord. #3985-03, March 2004)

17-302. Same - trash. (1) Trash shall be collected from each residential establishment not more than once a week by the city and on a schedule developed by the director of the department of public works.

(2) Trash collection shall be made from curbside only. Where there is no curb, containers and/or refuse shall be located as indicated by the director of the department of public works.

(3) Leaves raked into piles and windrows for collection during the leaf season, as defined in § 17-204, shall be collected at curbside only. The placing of leaves in public streets gutters or over storm drains is prohibited. Collection of leaves, during the leaf season, shall be provided to each residential establishment at least once per month and more frequently, if possible. The director of the department of public works shall prepare schedules for leaf collection and shall notify domestic producers of such schedules.

(4) Certain household items and appliances such as stoves, refrigerators, water tanks, washing machines, dryers, furniture, mattresses, bedsprings and air conditioners shall be collected by the city on an "on call" basis as follows:

(a) The producer shall call the department of public works and shall request that such items be picked up prior to placing those items at curbside or any other location as directed by the director of the department of public works.

(b) A fee established by the board of commissioners may be charged for this service.

(5) Trash or any other refuse not stored and placed as provided in chapters 3 and4 shall be removed from the premises by the producer or at his expense. The following items of refuse shall also be removed by the owner and/or producer or at his expense:

(a) Building material as defined in chapter 1, whether generated by a contractor or the owner or any other person;

(b) Garden refuse and landscape debris not placed in an authorized container as defined in chapter 1;

(c) Any refuse not resulting from the normal and routine maintenance of yard, grounds and residences, such as refuse removed from property after the owner was ordered to remove such refuse by the health inspector and any other authorized city officials;

(d) Automobile, truck, tractor and other vehicle tires and any other motor vehicle parts shall be disposed of by the owner or producer;

(e) Any trash pushed or pulled into piles by mechanical means shall be disposed of by the owner or producer;

(f) Any trash resulting from work performed by contractors or any other person for economic gain, whether such gain is in the form of cash or barter, shall be removed by the owner, occupant or producer except normal and routine yard trash generated by "yardworkers" shall be collected by in accordance with chapters 3 and 4. "Yardworkers" as used herein shall mean persons hired by citizens to perform routine lawn maintenance on a repetitive basis and does not include full-time employees or persons hired to do one-time tasks;

(g) Any other trash or refuse except certain household items and appliances defined in subsection (4) of this section, weighing in excess of fifty (50) pounds or having a volume of more than thirty (30) gallons shall be removed by the producer.

(6) The accumulation of not more than one (1) trailer load of cuttings nor one (1) truck load of yard trash shall be removed from any residential establishment by the city per scheduled pickup unless it is determined by the director of the department of public works to be in the best interest of the city for health, safety and welfare reasons to remove the entire accumulation.

(7) Refuse collection from vacant property located in residential areas will be limited to debris resulting from cleaning such property. "Cleaning" is defined as the removal of brush, leaves, litter and other refuse already lying on the ground. It also includes grass cuttings and small volumes of vines appropriately cut and stacked. Refuse resulting from the clearing of vacant property shall be removed by the owner or at their expense. "Clearing" is defined as the cutting or pruning of trees, grubbing, clearing of fence rows, demolition of structures, or grading and excavation of the property. (Ord. #3985-03, March 2004)

CHAPTER 4

NONRESIDENTIAL COLLECTION

SECTION

17-401. Garbage and trash collection; frequency, placement, etc.

(1) Collection of refuse for nonresidential establishments shall be limited to garbage, household trash and business trash stored in authorized containers. Bulky items of trash, furniture, appliances, office machines, cuttings, and yard trash that cannot be placed in authorized containers will not be collected by the city and shall be removed by the owner or producer.

(2) Tenants, lessees, occupants or owners of nonresidential establishments shall provide a safe and convenient entrance to and through the premises for the purpose of collection refuse. The city shall not be liable for damage done to driveways, parking lots, utility wires and connections, or other properties, resulting from normal use for ingress and egress to collect refuse, unless caused by negligence on the part of the city or its employees.

(3) The director of public works shall determine the method of solid waste collection for each nonresidential establishment. (Ord. #3985-03, March 2004)

17-402. Industrial waste. The collection and disposal of industrial waste shall be the responsibility of the owner, lessee, occupant or producer. (Ord. #3985-03, March 2004)

17-403. Cardboard boxes, cartons. Prior to being deposited as refuse for collection in approved containers, all cardboard boxes, cartons and crates shall be completely collapsed. (Ord. #3985-03, March 2004)

17-404. Hazardous refuse. No hazardous refuse shall be placed in any receptacle, container or unit used for refuse collection by the city. The collection and disposal of such refuse shall be the responsibility of the owner, lessee, occupant or producer. (Ord. #3985-03, March 2004)

CHAPTER 5

AUTOMATED COLLECTION PROGRAM

SECTION

17-501. Providing of rollout refuse cart. (1) Prior to June 30, 2004 one rollout refuse cart will be provided by the City of Johnson City at no cost to the following establishments:

(a) Single family residence

(b) Each unit of any multi-family structure using cans as of July 1, 2001

(c) Non-residential establishments using cans as of July 1, 2001 (one additional container may be provided at no cost if multiple containers were used prior to July 1, 2001)

(2) Multi-family and commercial establishments wishing to use roll-out carts after July 1, 2001 will be provided carts by the City of Johnson City only if required not to use a bulk container as specified in § 17-204.

(3) Additional carts may be purchased for a one-time fee as established by resolution of the board of commissioners.

(4) After June 30, 2004, the board of commissioners may establish by resolution an initial set-up fee for all new customers or non-residential customers eligible to switch services. (Ord. #3985-03, March 2004)

17-502. Location of rollout refuse cart. (1) The director of public works will designate the exact location of each cart to be collected. Carts must be located no greater than 3 ft. from edge of pavement or gutter unless specified otherwise by the director of public works.

(2) Carts must be 3 ft. from stationary objects such as mailboxes and utility poles. Carts shall not be located under any overhead obstacles, such as utility lines and canopies.

(3) Containers not placed in a manner as directed by the director of public works, such as the direction of container opening, location, etc. shall not be collected. (Ord. #3985-03, March 2004)

17-503. Contents of rollout refuse cart. (1) Cart must not contain hot ashes, liquids, paints, tires, red bags, animal carcass or parts, household hazardous waste or automobile parts.

(2) All animal waste must be double bagged prior to placing it in the cart.

(3) Total weight of cart and contents shall not exceed 250 pounds.

(4) Lid of cart must be in fully closed position to ensure collection. (Ord. #3985-03, March 2004)

15-404. Collection of rollout refuse cart. (1) Only those carts provided and sold by the City of Johnson City will be collected by the City of Johnson City.

(2) Any waste placed outside the cart, with the exception of furniture and appliances, will not be collected by the City of Johnson City.

(3) Carts that cannot be collected on regular collection day due to:

(a) Not being out at times of collection;
(b) Improper location;
(c) Not facing street properly;
(d) Overloaded;
(e) Unacceptable contents;
(f) Contents lodged or frozen in cart; or
(g) As otherwise determined by the director of public works to be in violation of the health, safety and welfare of the community or its employees,

will not be collected until the following collection week. It is the producer's responsibility to remove and dispose of any additional accumulation of waste in an approved manner. (Ord. #3985-03, March 2004)

15-405. Replacement carts. (1) Carts that are assigned to individual establishments remain the property of the City of Johnson City. Carts removed from such establishments will be considered stolen and appropriately processed through applicable courts of law.

(2) Any cart that is lost, stole or damaged by the user shall be replaced by that user at their cost.

Replacement of containers due to normal wear and tear shall be replaced by the user at a cost as determined from time to time by resolution of the board of commissioners. (Ord. #3985-03, March 2004)

CHAPTER 6

SANITARY REFUSE DISPOSAL SITES

SECTION

17-601. Designation. The city manager may select and designate, subject to approval of the board of commissioners, suitable and proper sites or locations as and for sanitary refuse disposal sites for the city. (Ord. #3985-03, March 2004)

17-602. City use. Sanitary refuse disposal sites selected, designated and approved under § 17-601 shall be used by such persons or other entities as is expressly permitted by the board of commission. (Ord. #3985-03, March 2004)

17-603. Days and hours of operation. Any dumping of refuse in sanitary refuse disposal sites by individuals or private haulers shall be done at such times as may be designated by the board of commissioners. Such dumping shall be subject to the direction and control of, and at the specific places designated by, the attendant in charge at such sanitary refuse disposal sites. (Ord. #3985-03, March 2004)

17-604. Material disposal control, fees, rates. It shall be unlawful for any person to dispose of materials, waste materials, or refuse, not suitable for the applicable disposal site as determined by the board of commissioners. All federal and state rules and regulations concerning hazardous and special waste disposal processes shall be followed. Disposal fees, rates, and credits, if any, at the applicable disposal site(s), including transfer station sites and city operated recycling centers, shall be established by resolution of the board of commissioners. (Ord. #3985-03, March 2004)

CHAPTER 7

COLLECTION AND DISPOSAL FEES

SECTION

17-701. Schedule of fees, rates, credits, etc., for collection and disposal. The board of commissioners shall establish by resolution a schedule of fees, rates, and/or credits for the following:

(1) The collection and disposal of all solid waste generated within the corporate limits of the City of Johnson City;

(2) The collection and disposal of all solid waste generated through any utility district or other entity controlled by the city; and

(3) Disposal of all solid waste in any city-owned or controlled sanitary refuse disposal site, transfer station, convenience center and/or recycling station or center. A copy of said schedule shall be kept in the city recorder's office for public inspection and the appropriate rates shall be conspicuously posted at all solid waste and disposal facilities. (Ord. #3985-03, March 2004)

17-702. Billing of service fee. The solid waste service fee for collection, removal, and disposal of refuse by the city shall be included as a separate item each month on the bills rendered by the city water and sewer system for water service to all city water customers, except those industrial, commercial and residential entities which utilize bulk container service may be billed separately by the city recorder's office. Said charges shall be rendered on the first water bill sent on and after September 1, 1991, and for each month thereafter. The accounts shall be paid monthly at the same time water bills are paid, except that bulk container accounts billed separately by the city recorder's office shall be due in fifteen days. (Ord. #3985-03, March 2004)

17-703. Failure to pay service fee. Water service shall be discontinued for failure to pay any solid waste collection or disposal fee, in accordance with the city's policy for discontinuation of water service for failure to pay bills for the same, as said policy may from time to time be amended.

Collection service for bulk container accounts shall be discontinued for failure to pay bills for the same, as said policy may from time to time be amended.

When service commences or ceases, applicable fees may be prorated. If water services shall be supplied to a location, the occupant or tenant of which has vacated said premises, and the city is satisfied that there has been a termination of the need for refuse collection, then the city, on application of the

owner or agent therefore, may suspend liability for such solid waste fees, and said fees shall be reinstated with the next water bill rendered to an occupant or tenant of the premises. (Ord. #3985-03, March 2004)

17-703. Responsibility for service fee. In case of premises containing more than one dwelling unit or place of business, and where each such unit or place of business is billed separately for water, such solid waste fees shall be billed to each person in possession, charge or control who is a water customer of the City of Johnson City Water and Sewer System. In the case of premises containing more than one dwelling unit or place of business which are served through a single water meter, so that the occupants or tenants cannot be billed separately, the customer responsible for the water bill shall be liable for the solid waste service fees for the premises. (Ord. #3985-03, March 2004)

CHAPTER 8

LITTER/NUISANCES/OVERGROWN PREMISES

SECTION

17-801. Nuisances--enumerated. The following are hereby declared to be public nuisances, dangerous to the health, safety, and/or welfare of the public, and it shall be unlawful for any person to keep, erect, maintain, or allow same upon any premises:

(1) Every pool, pond, privy, privy vault, cowpen, pigpen, stable or other place or enclosure within the city limits which shall become filthy and offensive;

(2) Every pen or other enclosure in which swine are kept;

(3) Every house or structure of any description which has fallen into decay or into heaps and piles;

(4) Every waste or sewer pipe from any kitchen, bathroom, house or other premises, discharging into the street;

(5) Every lot, premises or other enclosure on which filth, garbage, slops, manure, or other foul matter is thrown and allowed to accumulate so as to become offensive;

(6) Any weeds of a height of more than twenty-four (24) inches above the surface of the ground to grow and stand upon the same. Weeds includes all rank vegetable growths which exhale unpleasant and noxious odors and/or growths that may conceal filthy deposits, vermin, litter, used metal cans, empty bottles, broken glass or any decaying vegetable or animal matter. (Ord. #3985-03, March 2004)

17-802. Public places. No person shall throw or deposit litter in or upon any street, sidewalk or other public place within the city except in public receptacles, in authorized private receptacles for collection or in permitted landfills. (Ord. #3985-03, March 2004)

17-803. Manner of placement in receptacles. Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property. (Ord. #3985-03, March 2004)

17-804. Sweeping, etc., litter into gutters, etc. No person shall sweep into or deposit in any gutter, street or other public place within the city the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. (Ord. #3985-03, March 2004)

17-805. Duty to clean sidewalks. Persons owning or occupying places of business within the city as well as owners of private property shall keep the sidewalk in front of their premises free of litter. (Ord. #3985-03, March 2004)

17-806. Throwing litter from vehicles. No person , while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the city, or upon private property. (Ord. #3985-03, March 2004)

17-807. Parks. No person shall throw or deposit litter in any park within the city except in public receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or other public place. Where public receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere as provided in this chapter. (Ord. #3985-03, March 2004)

17-808. Lakes and fountains. No person shall throw or deposit litter into any fountain, pond, lake stream, bay or any other body of water in a park or elsewhere in the city. (Ord. #3985-03, March 2004)

17-809. Dropping litter, etc., from aircraft. No person in an aircraft shall throw out, drop or deposit within the city any litter, handbill or any other object. (Ord. #3985-03, March 2004)

17-810. Occupied private property. (1) No person shall throw or deposit litter on any occupied private property within the city, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements, upon any street, sidewalk or other public place or upon any private property.

(2) The owner or person in control of any private property shall at all times maintain the premises free of litter. This section shall not prohibit the storage of litter in authorized private receptacles for collection. (Ord. #3985-03, March 2004)

17-811. Reserved. (Ord. #3985-03, March 2004)

17-812. Vacant lots. No person shall throw or deposit litter on or upon any open or vacant private property within the city, whether owned by such person or not. (Ord. #3985-03, March 2004)

17-813. Abating nuisance. (1) Notice to remove. When in the opinion of the director of development services, or his or her designee, weeds, brush or any nuisance as defined in § 17-801, is determined to be located on open or any private property within the City of Johnson City, said director of development services or his or her designee may notify the owner of such property to properly abate such aforesaid nuisance located on said owner's property. Such notice shall be by certified mail, addressed to such owner at his or her last-known address. Such notice may also include placards posted on subject property, etc., and/or notice in nonlegal section of local newspaper.

(2) Non-compliance. Upon the failure, neglect, or refusal of any owner or agent so notified to properly abate the aforesaid nuisance within fifteen (15) days after receipt of written notice provided in subsection (1) above, or within thirty (30) days after the date of such notice in the event the same is returned to the city by the postal service because of its inability to make delivery thereof, the aforesaid director of development services may pay for the abatement of such nuisances or may order its abatement by the city.

(3) Charge included in tax bill. When the city has effected the abatement of the nuisance in accordance with the foregoing subsections or paid for its abatement, the actual cost thereof, plus accrued interest at the rate of six percent (6%) per annum from the date of the completion of the work, if not paid by such owner prior thereto, shall be charged to the owner of such property on the next regular tax bill forwarded to such owner by the city, and such charge shall be due and payable by such owner at the time of payment of such bill.

(4) Lien. Where the full amount due the city is not paid by such owner within four (4) months after the abatement of such nuisance as provided for in the foregoing subsections, then the director of development services or his or her designee, shall cause to be recorded in the office of the register for the county, a sworn statement showing the cost and expense incurred for the work, the date that the work was done, and the location of the property on which such work was done. The recordation of such sworn statement shall constitute a lien and privilege on the property, and shall remain in full force and effect for the amount due in principal and interest, plus costs of court, if any, for collection, until final payment has been made. Such costs and expenses shall be collected

in the manner fixed by law for the collection of taxes and shall be subject to a delinquent penalty of ten percent (10%) in the event same is not paid in full on or before the tax bill upon which said charge appears become delinquent. Sworn statements recorded in accordance with the provisions hereof shall be prima facie evidence that all legal formalities have been complied with and the work has been done properly and satisfactorily, and shall be full notice to every person concerned that the amount of the statement, plus interest, constitutes a charge against the property designated or described in the statement and the same is due and collectable as provided by law. (Ord. #3985-03, March 2004, as amended by Ord. #4517-13, Feb. 2014)

TITLE 18

WATER AND SEWERS[1]

CHAPTER

CHAPTER 1

MISCELLANEOUS

SECTION

18-101. Definitions. For the purpose of this chapter:

(1) "Biochemical oxygen demand (BOD)" shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard

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[1]Charter references
City bonds: art XV.
Collection of special assessments by chancery proceedings: § 56.
Collection of special assessments: § 65.
Departments: art XVIII.
Public utilities: § 7.12, et seq.
Sanitation charged against abutting property: § 7.18.
Sewers: § 7.19, et seq.

State law references
Revenue bonds: Tennessee Code Annotated, § 7-34-101, et seq.
Sewers and waterworks: Tennessee Code Annotated, title 7, ch. 35.

laboratory procedures, five (5) days; twenty (20) degrees Celsius expressed in terms of concentration (milligrams per liter (mg/l)).

(2) "Human excreta" shall mean the bowel and kidney discharges of human beings.

(3) "Suspended solids" shall mean the total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.

(4) "Wastewater" shall mean the liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together with such ground, surface or storm water as may be present, whether treated or untreated, which is contributed into or permitted to enter the publicly owned treatment works. (1985 Code, § 19-1)

18-102. Sewage disposal--generally. (1) Every residence, building or place where human beings reside, assemble or are employed, within the police jurisdiction of the city, shall have a sanitary method of disposal of sewage and human excreta as required by this chapter.

(2) No sewage or human excreta shall be thrown out, deposited, burned or otherwise disposed of except by a sanitary method of disposal as specified in this chapter. (1985 Code, § 19-2)

18-103. Sewage disposal--duty of owner. It shall be the duty of the owner of any property upon which facilities for sanitary human excreta disposal are required by § 18-102 to provide such facilities. (1985 Code, § 19-3)

18-104. Sewage disposal--duty of occupant. It shall be the duty of the occupant, tenant, lessee or other person in charge to maintain the facilities for human excreta disposal in a clean and sanitary condition at all times, and no refuse or other material which may unduly fill up, clog or otherwise interfere with the operation of such facilities shall be deposited therein. (1985 Code, § 19-4)

18-105. Toilets. On any lot or premises provided with a connection to the sewer, no method of human excreta disposal other than flush toilets shall be employed. (1985 Code, § 19-5)

18-106. Inspections; correction of deficiencies. (1) It shall be the duty of the health officer to make an inspection of the methods of disposal of sewage and human excreta. Written or verbal notification of any violation of this chapter shall be given by the health officer to the person responsible hereunder for the correction of the conditions, and correction shall be made within ten (10) days after notification. If the health officer shall advise any person that the disposal of sewage and human excreta made by such person constitutes an immediate and serious menace to health, such person shall at

once take steps to remove the menace and failure to remove such menace immediately shall be punishable as provided in § 1-104 of this code; but such person shall be allowed the number of days provided in this section within which to make permanent correction.

(2) If the provisions of this chapter have not been complied with within ten (10) days following the date of notification of the violation, the city shall have the right to make or have made such changes or corrections as are deemed necessary by the health officer to meet the requirements of this chapter. The cost of changes and corrections necessary to meet the provisions of this chapter shall be charged as may be appropriate in each case. (1985 Code, § 19-6)

18-107. Carnivals, circuses, etc. Whenever carnivals, circuses and other transient groups of persons come within the city, such groups shall provide a sanitary method for disposal of sewage and human excreta. Such group shall make all reasonable changes and corrections proposed by the health officer. The notice required in § 18-106 shall not apply to this section. (1985 Code, § 19-7)

CHAPTER 2

WASTEWATER SYSTEM

SECTION

18-201. Operating agency. That the operating body for the Brush Creek, Knob Creek and Regional Wastewater System shall be the Water/Sewer Department of the City of Johnson City. (Ord. #4051-04, Oct. 2004, as replaced by Ord. #4453-12, June 2012, and Ord. #4663-18, July 2018 ***Ch11_4-4-19***)

18-202. Operating authority. The Water/Sewer Department of Johnson City shall have charge of the management, operation and maintenance of all aspects of the Brush Creek, Knob Creek and Regional Wastewater Systems and all wastewater properties, including all future improvements and extensions and including all real and personal property of every nature comprising part of or used or useful in connection with such system and including all appurtenances, contracts, leases, franchises, and other intangibles. (Ord. #4051-04, Oct. 2004, as replaced by Ord. #4453-12, June 2012, and Ord. #4663-18, July 2018 ***Ch11_4-4-19***)

18-203. Costs of operating and maintenance. All costs of operation, maintenance, administration and debt services shall be paid from the revenues to be derived from such system. (Ord. #4051-04, Oct. 2004, as replaced by Ord. #4453-12, June 2012, and Ord. #4663-18, July 2018 ***Ch11_4-4-19***)

18-204. <u>Connection with sewer required</u>. Each owner, tenant or occupant of any lot or parcel of land within the Brush Creek, Knob Creek and Regional Wastewater Systems, which lot or parcel abuts upon a street or other public way containing a sanitary sewer or is within two hundred feet (200') of a sanitary sewer, and upon which lot or parcel a building is situated for residential, commercial or industrial use, is hereby required to connect such building with such sanitary sewer and to cease to use any other means for the disposal of sewage waste or polluting matter, and all cesspools, pits and privies on such property shall be a nuisance and shall be abated. Failure to comply with this section shall subject such owner, tenant or occupant to a fine of not exceeding fifty dollars ($50.00) for each thirty (30) day period from written notice of the availability of such sewer service said owner, tenant or occupant, given by certified mail by the chief department head of the operating authority. (Ord. #4051-04, Oct. 2004, as replaced by Ord. #4453-12, June 2012, and Ord. #4663-18, July 2018 ***Ch11_4-4-19***)

18-205. <u>Tapping fees</u>. Each person desiring to tap or connect with the Brush Creek, Knob Creek and Regional Wastewater System of the city, shall first obtain a permit therefore from the city and pay in cash to the city a tap or connection fee as hereinafter provided for each tap or connection prior to the time of the issuance of the permit in accordance with the schedule which follows effective July 1, 2012:

TAPPING FEES

		Inside Corporate Limits	Outside Corporate Limits
(1)	Single Family Residence	$1,550.00	$3,100.00
(2)	Small Commercial Users (i.e. service stations, office buildings, other non-residential users, etc.) of less than 10,000 square feet	$1,550.00	$3,100.00
(3)	Car Wash	$1,550.00 first bay $900.00 each additional bay	$3,100.00 first bay $1,800.00 each additional bay

(4)	Apartments, Condominiums, Multi-Unit Family Complexes, etc., per unit; Trailer Courts, trailer or unit	$1,550.00 for the first unit $900.00 for the next (50) units plus $550.00 for each additional unit	$3,100.00 for the first unit $1,800.00 for the next (50) units plus $1,100.00 for each additional unit
(5)	Factories, Shopping Centers, Schools, Warehouses, Parking Garages	$1,550.00 for the first 10,000 sq. ft. of floor space plus $900.00 for each additional 10,000 sq. ft. of floor space	$3,100.00 for the first 10,000 sq. ft. of floor space plus $1,800.00 for each additional 10,000 sq. ft. of floor space
(6)	Motels, Hotels, Hospitals, Nursing Homes, Dormitories		
	(a) Each Rental unit/room with no in-room kitchen facilities	$1,550.00 for first unit $550.00 for each additional unit	$3,100.00 for first unit $1,100.00 for each additional unit
(7)	Rental Housing with private bathroom facilities per bedroom	$1,550.00 for first rental space $550.00 for each additional rental space	$3,100.00 for first rental space $1,100.00 for each additional rental space

(8)	Additional existing units on same lot or parcel of land with existing residence and connected to the same sewer tap	$1,550.00	$3,100.00
(9)	New residences located in areas developed under the regulations governing the subdivision of land of governing the subdivision of land of the Johnson City Regional Planning Commission in which adequate and proper sewer lines constructed in conformity with applicable statutes of the State of Tennessee and Ordinances of the City pertaining to sanitation have been constructed as a part of private subdivision development	$1,050.00	$2,100.00
(10)	On-Site Residential Pumping System		
	(a) Standard On-Site Residential Pump	$3,500.00	$7,000.00
	(b) Extra Volume Storage Pump	$4,900.00	$9,800.00

BOONES CREEK DRAINAGE BASIN TAPPING FEES

		Inside Corporate Limits	Outside Corporate Limits
(1)	Single Family Residence	$2,745.00	$ 5,490.00
(2)	Small Commercial Users (i.e. service stations, office buildings, other non-residential users, etc.) of less than 10,000 square feet	$2,745.00	$5,490.00

(3)	Car Wash	$2,745.00 first bay $1,610.00 each additional bay	$5,490.00 first bay $3,220.00 each additional bay
(4)	Apartments, Condominiums, Multi-Unit Family Complexes, etc., per unit; Trailer Courts, trailer or unit	$2,745.00 for the first unit $1,610.00 for the next (50) units plus $850.00 for each additional unit	$5,490.00 for the first unit $3,220.00 for the next (50) units plus $1,700.00 for each additional unit
(5)	Factories, Shopping Centers, Schools, Warehouses, Parking Garages	$2,745.00 for the first 10,000 sq. ft. of floor space plus $1,610.00 for each additional 10,000 sq. ft. of floor space	$5,490.00 for the first 10,000 sq. ft. of floor space plus $3,220.00 for each additional 10,000 sq. ft. of floor space
(6)	Motels, Hotels, Hospitals, Nursing Homes, Dormitories		
	(a) Each Rental unit/room with no in-room kitchen facilities	$2,745.00 for first unit $1,000.00 for each additional unit	$5,490.00 for first unit $2,000.00 for each additional unit

(7)	Rental Housing with private bathroom facilities per bathroom	$2,745.00 for first rental space $1,000.00 for each additional rental space	$5,490.00 for first rental space $2,000.00 for each additional rental space
(8)	Additional existing units on same lot or parcel of land with existing residence and connected to the same sewer tap	$2,745.00	$5,490.00
(9)	New residences located in areas developed under the regulations governing the subdivision of land of governing the subdivision of land of the Johnson City Regional Planning Commission in which adequate and proper sewer lines constructed in conformity with applicable statutes of the State of Tennessee and Ordinances of the City pertaining to sanitation have been constructed as a part of private subdivision development	$2,745.00	$5,490.00
(10)	On-Site Residential Pumping System		
	(Requires evaluation and written approval)		
	(a) Standard On-Site Residential Pump	$3,920.00	$7,840.00
	(b) Extra Volume Storage Pump	$5,420.00	$10,840.00

Where multiple categories apply, the water/sewer department director or designee shall calculate the appropriate tap fee and provide the calculation in writing. (Ord. #4051-04, Oct. 2004, as replaced by Ord. #4453-12, June 2012, and Ord. #4663-18, July 2018 ***Ch11_4-4-19***)

18-206. <u>Permits and inspection fees</u>. Any facility requiring sewer service outside the corporate limits of the City of Johnson City shall obtain a

permit issued by the city and shall also have an inspection conducted by the city. The permit and inspection fee shall be twenty-five dollars ($25.00) for sewer connections categorized under § 18-205 of this chapter as: (1), (2), (3), (8), and (9). The permit and inspection fee shall be seventy-five dollars ($75.00) for sewer connections categorized under § 18-205 of this ordinance as: (4), (5), (6), (7), and (10). The permit and inspection fee shall be paid to the city at the time the application for service is filed. Permit fees shall cover the costs of inspecting new and/or existing plumbing within subject building establishments as well as inspection of building sewers, property sewers, and sewer service lines and connections to public sewers. (Ord. #4051-04, Oct. 2004, as replaced by Ord. #4453-12, June 2012, and Ord. #4663-18, July 2018 ***Ch11_4-4-19***)

18-207. Use of existing systems. All cesspools, privies, privy vaults and septic tank systems in use in the Brush Creek, Knob Creek and Regional Wastewater Systems may continue to be used, if kept in a proper and sanitary condition, until such time as a sewer shall be constructed in a street or alley abutting or adjacent to or within two hundred feet (200') of the property on which the same may be located, so that such property may obtain the use of and be connected with such sewer when the same shall be connected therewith as provided in § 18-204. (Ord. #4051-04, Oct. 2004, as replaced by Ord. #4453-12, June 2012, and Ord. #4663-18, July 2018 ***Ch11_4-4-19***)

18-208. Determination of costs. (1) There shall be and there are hereby established monthly rates and charges for the use of the Brush Creek, Knob Creek and Regional Wastewater Systems and for the services supplied by the wastewater system. Said charges shall be based upon the costs categories of:

(1) Administration costs including billing and accounting costs,

(2) Operation and maintenance costs of the wastewater treatment system.

The distribution of the total yearly costs of the operation and maintenance costs of the wastewater system shall result in payment in proportion to each user's contribution to the total wastewater loading of the system. As a minimum the total wastewater loading per customer (user) shall be determined by three (3) factors as follows:

(1) Wastewater flow in gallons per day or other appropriate unit rate of flow,

(2) Biochemical Oxygen Demand (BOD) expressed in pounds per day or other appropriate weight per unit for time units, and

(3) Suspended Solids (SS) expressed in pounds per day or other appropriate weight per unit of time units.

If it is determined by the city that the discharge of other loading parameters or wastewater substances are creating excessive operation and

maintenance costs within the wastewater system, whether collection or treatment, then the monetary effect of such a parameter or parameters shall be borne by the dischargers of such parameters in proportion to the amount of discharge. (Ord. #4051-04, Oct. 2004, as replaced by Ord. #4453-12, June 2012, and Ord. #4663-18, July 2018 ***Ch11_4-4-19***)

18-209. Classification of users. Users of the wastewater system shall be classified into two (2) general classes or categories depending upon the users' contribution of wastewater loads; each class being identified as fol lows:

Class I: Those users whose biochemical oxygen demand is two hundred (200) milligrams per liter (200 mg/l) by weight, and whose suspended solids discharge is two hundred (200) milligrams per liter (200 mg/l) by weight or less.

Class II: Those users whose biochemical oxygen demand exceeds two hundred (200) milligrams per liter concentration (200 mg/l) by weight and/or whose suspended solids exceeds two hundred (200) milligrams per liter concentration (200 mg/l).(Ord. #4051-04, Oct. 2004, as replaced by Ord. #4453-12, June 2012, and Ord. #4663-18, July 2018 ***Ch11_4-4-19***)

18-210. Computation of costs. (1) Operation and maintenance costs recovery. (a) All users who fall under Class I shall pay a single unit charge expressed as dollars per one thousand (1,000) gallons of water purchased ($/1,000 gallons) with the unit charge being determined in accordance with the following formula:

$$C_i = \frac{T.S.C.}{V_t}$$

Where;

C_i = The Class I total unit cost in $/1,000 gallons.

T.S.C. = The total system yearly operation and maintenance costs as determined by yearly budget projections.

V_t = The total volume of wastewater contribution from all users per year as determined from projections from one city fiscal year to the next.

(b) All users who fall within the Class II classification shall pay the same base unit charge per one thousand (1,000) gallons of water purchased as for the Class I users and in addition shall pay a surcharge

rate on the excessive amounts of biochemical oxygen demand and suspended solids in direct proportion to the actual discharge quantities.

(c) When either or both the total suspended solids or biochemical oxygen demand quantities discharged into the Brush Creek, Knob Creek or Regional Wastewater Systems is in excess of those described in § 18-208 - Class I users, thus being classified as Class II users, the following formula shall be used to compute the appropriate user charge if deemed necessary by the director of the department of water and sewer services:

$$C_u = V_c V_u + B_c B_u + S_c S_u$$

Where:

C_u	=	Total user charge per unit of time.
V_c	=	Total cost for transportation and treatment of a unit of wastewater volume.
V_u	=	Volume contribution per unit of time.
B_c	=	Total cost for treatment of a unit of Biochemical Oxygen Demand (BOD).
B_u	=	Total BOD contribution from a user per unit of time.
S_c	=	Total cost of treatment of a unit of suspended solids.
S_u	=	Total suspended solids contribution from a user per unit of time.

(2) Administrative and debt service costs recovery. All users, whether Class I or Class II shall pay an additional charge which shall be based on all costs necessary to bill, collect, and administer the wastewater program and that revenue necessary to repay all debts acquired by the city in order to design and construct said Brush Creek, Knob Creek and Regional Wastewater systems. (Ord. #4051-04, Oct. 2004, as replaced by Ord. #4453-12, June 2012, and Ord. #4663-18, July 2018 ***Ch11_4-4-19***)

18-211. Frequency of analysis. (1) The waste discharges of each Class II user discharging same into the city sanitary sewers shall be subject to periodic inspection and a determination of character and concentration of said wastes shall be made semi-annually, or more often as may be deemed necessary, by the director of the department of water and sewer services, or his authorized assistants.

(2) Samples shall be collected in such a manner as to be representative of the actual quality of the wastes. The laboratory methods used in the examination of said wastes shall be those set forth in the latest edition of "Standard Methods" for the examination of water and wastewater published by the American Public Health Association. (Ord. #4051-04, Oct. 2004, as replaced by Ord. #4453-12, June 2012, and Ord. #4663-18, July 2018 ***Ch11_4-4-19***)

18-212. Disputed analysis; regauging and sampling of wastes. In the event that an analysis of wastes, determined by the samplings and gauging of wastes from a person or industry by the city is disputed; a program of resampling and gauging, with subsequent chemical determination may be instituted as follows:

(1) The person or industrial user interested must submit a request for resampling and gauging of their wastes to the director by letter and bind themselves to bear the expenses incurred by the city in resampling and gauging and subsequent determination of the wastes.

(2) The chemist or engineer employed by the company responsible for the request submitted to the city must confer with the city's person in charge of gauging and sampling, They will establish the length of the re-run and the methods to be employed to determine the flow and to sample the flow.

(3) The chemist or engineer engaged by the person or industry may be present during the gauging arid sampling operation and also in the city's laboratory during the chemical analysis.

(4) The results of the analysis, determined from the quantity and quality of the flow shall be considered the analysis of record and shall be used to establish current billing procedures. (Ord. #4051-04, Oct. 2004, as replaced by Ord. #4453-12, June 2012, and Ord. #4663-18, July 2018 ***Ch11_4-4-19***)

18-213. Monthly rates. (1) Recovery of all costs. There shall be and hereby are established monthly rates and charges necessary to recover the costs associated with the administrative, debt service, and operation and maintenance of the Johnson City Brush Creek, Knob Creek and Regional Wastewater Systems based on the one hundred percent (100%) metered quantities of water purchased and in accordance with the following rate schedule. To be in effect with all bill calculations beginning August 1 for FY 2018-2019 and July I for FY 2019-2020 and for all subsequent fiscal years.

	Inside City FY 2018-2019	**Outside City FY 2018-2019**
Base Charge Per Bill	$6.04	$11.72
Rate per 1,000 gallons	$6.06	$11.76
	Inside City FY 2019-2020	**Outside City FY 2019-2020**
Base Charge Per Bill	$6.34	$11.98
Rate Per 1,000 gallons	$6.68	$12.02

	Inside City FY 2020-2021	**Outside City FY 2020-2021**
Base Charge Per Bill	$6.65	$12.24
Rate Per 1,000 gallons	$6.68	$12.29

	Inside City FY 2021-2022	**Outside City FY 2021-2022**
Base Charge Per Bill	$6.98	$12.49
Rate Per 1,000 gallons	$7.01	$12.55

(2) For Class II users an additional charge for strength of waste is as follows:

	Inside City	**Outside City**
BOD (based on the wastewater flow and discharge of concentration of BOD)	$503.07/ton	$1,006.11/ton
SS (suspended solids based on the wastewater flow and the discharge concentration suspended solids)	$262.09/ton	$524.17/ton

(Ord. #4051-04, Oct. 2004, as replaced by Ord. #4453-12, June 2012, and Ord. #4663-18, July 2018 ***Ch11_4-4-19***)

18-214. Monthly bills. Each water meter shall be read periodically and sewer bills rendered as promptly as may be possible following respective readings. Residential customers who seasonally use water for irrigation are allowed to purchase an irrigation meter for water use not returned to the wastewater systems. Commercial, institutional, governmental, and industrial customers with ongoing large processes may apply for a deduct water meter approval to measure only those segregated volumes not discharged to the wastewater systems. A system of billing shall be established by the finance deportment commonly known as "cycle billing." A penalty of ten percent (10%) of the sewer charge shall be added after billing due date if the bill has not been paid.

If the bill is not promptly paid two (2) days after the billing due date, then the same shall become delinquent and service shall be discontinued as provided in § 18-216. Such service shall not be continued again until all delinquent

charges and all penalties shall have been paid. An additional charge of twenty-five dollars ($25.00) shall be made for reinstating service when such delinquent bill or bills are paid. (Ord. #4051-04, Oct. 2004, as replaced by Ord. #4453-12, June 2012, and Ord. #4663-18, July 2018 ***Ch11_4-4-19***)

18-215. Water and sewer bills combined. Water bills and sewer bills may be combined in one statement in such manner as to require the payment of both water charges and sewer charges as a unit. (Ord. #4051-04, Oct. 2004, as replaced by Ord. #4453-12, June 2012, and Ord. #4663-18, July 2018 ***Ch11_4-4-19***)

18-216. Discontinuance of service upon failure to pay bills, etc. Payments of such bills as presented under §§ 18-206 and 18-213 shall be enforced by discontinuing either the water service, the sewer service, or both except to the extent that the city cannot do so without impairment of the contract rights vested in the holders of the outstanding bonds payable from the revenues of the water and sewer systems of the city. (Ord. #4051-04, Oct. 2004, as replaced by Ord. #4453-12, June 2012, and Ord. #4663-18, July 2018 ***Ch11_4-4-19***)

18-217. Service charges. A service charge of twenty-five dollars ($25.00) will be made for each water tap; connection of new service twelve dollars and fifty cents ($12.50) for automatic landlord turn-on agreement or fifty dollars ($50.00) for same day service); transfer of service; account name change; reconnection of service following non-payment of bill to include returned checks; and meter checks (no charge for first two (2) during last twelve (12) months). A service charge of twenty-five dollars ($25.00) will be added to an account turned over to a collection agency. A seventy-five dollar ($75.00) service fee will be charged for tampering with water meters, locks, or attempting illegal hook-ups. Tapping fees are presented under § 18-205 not paid within ten (10) days of issuance of a building permit will be subject to a service fee of an additional ten percent (10%) of the tapping fee. (Ord. #4051-04, Oct. 2004, as replaced by Ord. #4453-12, June 2012, and Ord. #4663-18, July 2018 ***Ch11_4-4-19***)

18-218. Other charges. For approved septage haulers a biannual permit is required. The permit fee is two hundred dollars ($200.00) to be paid prior to the acceptance of septage by city. A fee of fifty dollars ($50.00) per one thousand (1,000) gallons of septage received is required at the time of discharge. The fee for each one thousand (1,000) gallons of septage will not be prorated for partial loads. (as added by Ord. #4453-12, June 2013, and replaced by Ord. #4663-18, July 2018 ***Ch11_4-4-19***)

CHAPTER 3

WASTEWATER TREATMENT (SEWER) SYSTEM

SECTION

18-301. General provisions. (1) Purpose and policy. This chapter sets forth uniform requirements for users of the wastewater treatment system; hereinafter called Publicly Owned Treatment Works for the City of Johnson City; hereinafter called Johnson City, and enables the Johnson City to comply with all applicable state and federal laws, including the state pretreatment requirements (Tennessee Rule 1200-4-14), the Clean Water Act (33 United States Code [U.S.C.] section 1251, et seq.) and the general pretreatment regulations (title 40 of the Code of Federal Regulations [C.F.R.] part 403). The objectives of this chapter are:

(a) To prevent the introduction of pollutants into the publicly owned treatment works that will interfere with its operation;

(b) To prevent the introduction of pollutants into the publicly owned treatment works that will pass through the publicly owned treatment works, inadequately treated, into receiving waters, or otherwise be incompatible with the publicly owned treatment works;

(c) To protect both publicly owned treatment works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;

(d) To promote reuse and recycling of industrial wastewater and sludge from the publicly owned treatment works;

(e) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the publicly owned treatment works; and

(f) To enable Johnson City to comply with its national pollutant discharge elimination system permit conditions, sludge use and disposal requirements, and any other federal or state laws to which the publicly owned treatment works is subject.

This chapter provides that all persons residing within the City Limits of the City of Johnson City must have adequate wastewater treatment either in the form of a connection to the publicly owned treatment works or, where the system is not available, a private disposal system approved by the city.

This chapter shall apply to all users of the publicly owned treatment works. The chapter authorizes the issuance of individual wastewater discharge permits or general permits to certain system users; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

(2) Administration. Except as otherwise provided herein, the director shall administer, implement, and enforce the provisions of this chapter. Any powers granted to or duties imposed upon the director may be delegated by the director to a duly authorized Johnson City employee.

(3) Abbreviations. The following abbreviations, when used in this chapter, shall have the designated meanings:

BOD – Biochemical Oxygen Demand
BMP – Best Management Practice
BMR – Baseline Monitoring Report
C.F.R. – Code of Federal Regulations
CIU – Categorical Industrial User
COD – Chemical Oxygen Demand
EPA – U.S. Environmental Protection Agency
FOG – Fats, Oil and Grease
FSE – Food Service Establishment
GPD – Gallons per Day

IU – Industrial User
MGD- Million Gallons per Day
mg/l – milligrams per liter
NPDES – National Pollutant Discharge Elimination System
NSCIU – Non-Significant Categorical Industrial User
POTW – Publicly Owned Treatment Works
RCRA – Resource Conservation and Recovery Act
SIU – Significant Industrial User
SNC – Significant Noncompliance
TSS – Total Suspended Solids
U.S.C. – United States Code

(4) Definitions. Unless a provision explicitly states otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated.

(a) "Act" or "the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. section 1251, et seq.

(b) "Approval authority." The Tennessee Division of Water Pollution Control Director or his/her representative(s).

(c) "Authorized or duly authorized representative of the user."

(i) If the user is a corporation:

(A) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

(B) 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 or general permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(ii) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(iii) If the user is a federal, state, or local governmental facility: a director or highest official appointed or designated to

oversee the operation and performance of the activities of the government facility, or their designee.

(iv) The individuals described in subsections (i) through (iii), 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 Johnson City.

(d) "Biochemical Oxygen Demand" or "BOD." The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at twenty degrees (20°) centigrade, usually expressed as a concentration (e.g., mg/l).

(e) "Best Management Practices" or "BMPs" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in § 18-302(1)(a) and (b) [Tennessee Rule 1200-4-14-.05(1)(a) and (2)]. BMPs include, but are not limited to, treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

(f) "Building inspector." The person representing the city's building department which is responsible for all plumbing inspection of establishments served by city utilities within the city limits.

(g) "Building sewer." A sewer conveying wastewater from the premises of a user to the POTW.

(h) "Categorical pretreatment standard" or "categorical standard." Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. section 1317) that apply to a specific category of users and that appear in 40 C.F.R. chapter I, subchapter N, parts 405-471.

(i) "Categorical industrial user." An industrial user subject to a categorical pretreatment standard or categorical standard.

(j) "Chemical Oxygen Demand" or "COD." A measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.

(k) "City," or "Johnson City," or "City of Johnson City." The City of Johnson City, Tennessee.

(l) "Control authority." The City of Johnson City.

(m) "Daily maximum." The arithmetic average of all effluent samples for a pollutant collected during a calendar day.

(n) "Daily maximum limit." The maximum allowable discharge limit of a pollutant during a calendar day. Where daily maximum limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where daily maximum limits are

expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

(o) "Director of sanitary sewer department" or "director." The person designated by Johnson City to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this chapter. The term also means a duly authorized representative of the director.

(p) "Environmental Protection Agency" or "EPA." The U.S. Environmental Protection Agency or, where appropriate, the regional water management division director, the regional administrator, or other duly authorized official of said agency.

(q) "Existing source." Any source of discharge that is not a new source.

(r) "Grab sample." A sample that is taken from a waste-stream without regard to the flow in the waste-stream and over a period of time not to exceed fifteen (15) minutes.

(s) "Indirect discharge" or "discharge." The introduction of pollutants into the POTW from any nondomestic source.

(t) "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.

(u) "Interference." A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; or exceeds the design capacity of the treatment works or the collection system.

(v) "Local limit." Specific discharge limits developed and enforced by [the city] upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in Tennessee Rule 1200-4-14-.05(1)(a) and (2).

(w) "Medical waste." Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

(x) "Monthly average." The sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

(y) "Monthly average limit." The highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

(z) "New source." (i) 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 Act that will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

(A) The building, structure, facility, or installation is constructed at a site at which no other source is located; or

(B) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(C) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

(ii) 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 section (i)(B) or (C) above but otherwise alters, replaces, or adds to existing process or production equipment.

(iii) Construction of a new source as defined under this subsection has commenced if the owner or operator has:

(A) Begun, or caused to begin, as part of a continuous onsite construction program:

(1) Any placement, assembly, or installation of facilities or equipment; or

(2) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(B) 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.

(aa) "Noncontact cooling water." Water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

(bb) "Pass through." A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of Johnson City's NPDES permit, including an increase in the magnitude or duration of a violation.

(cc) "Person." Any and all persons, including individuals, firms, partnerships, associations, public or private institutions, state and federal agencies, municipalities or political subdivisions, or officers thereof, departments, agencies, or instrumentalities, or public or private corporations or officers thereof, organized or existing under the laws of this or any state or country.

(dd) "pH." A measure of the acidity or alkalinity of a solution, expressed in standard units.

(ee) "Pollutant." Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

(ff) "Pretreatment." The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

(gg) "Pretreatment requirements." Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

(hh) "Pretreatment standards" or "standards." Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.

(ii) "Prohibited discharge standards" or "prohibited discharges." Absolute prohibitions against the discharge of certain substances; these prohibitions appear in § 18-302(1) of this chapter.

(jj) "Publicly Owned Treatment Works" or "POTW." A treatment works, as defined by section 212 of the Act (33 U.S.C. section 1292), which is owned by the City of Johnson City. This definition

includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances, which convey wastewater to a treatment plant.

(kk) "Septic tank waste." Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

(ll) "Sewage." Human excrement and gray water (household showers, dishwashing operations, etc.).

(mm) "Significant Industrial User (SIU)." Except as provided in subsections (iii) and (iv) of this subsection (mm), a significant industrial user is:

(i) An industrial user subject to categorical pretreatment standards; or

(ii) An industrial user that:

(A) Discharges an average of twenty-five thousand (25,000) Gallons Per Day (GPD) or more of process wastewater to the POTW (excluding sanitary, non-contact cooling and boiler blow-down wastewater);

(B) 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

(C) Is designated as such by Johnson City on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

(iii) Johnson City may determine that an industrial user subject to categorical pretreatment standards is a non-significant categorical industrial user rather than a significant industrial user on a finding that the industrial user never discharges more than one hundred (100) Gallons Per Day (GPD) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blow-down wastewater, unless specifically included in the pretreatment standard) and the following conditions are met:

(A) The industrial user, prior to Johnson City's finding, has consistently complied with all applicable categorical pretreatment standards and requirements;

(B) The industrial user annually submits the certification statement required in § 18-306(13)(b) [see Tennessee Rule 1200-4-14-.12(17)], together with any additional information necessary to support the certification statement; and

(C) The industrial user never discharges any untreated concentrated wastewater.

(iv) Upon a finding that a user meeting the criteria in subsection (ii) of this subsection (mm) has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, Johnson City may at any time, on its own initiative or in response to a petition received from an industrial user, and in accordance with procedures in Tennessee Rule 1200-4-14-.08(6)(f), determine that such user should not be considered a significant industrial user.

(nn) "Slug load" or "slug discharge." Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in § 18-302(1) of this chapter. A slug discharge is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the POTW's regulations, local limits or permit conditions.

(oo) "Storm water." Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

(pp) "Total suspended solids" or "suspended solids." The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and that is removable by laboratory filtering.

(qq) "User" or "industrial user." A source of indirect discharge.

(rr) "Wastewater." Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

(ss) "Wastewater treatment plant" or "treatment plant." That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste. (1985 Code, § 19-87, as replaced by Ord. #4407-11, Aug. 2011)

18-302. General sewer use requirements. (1) Prohibited discharge standards. (a) General prohibitions. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements.

(b) Specific prohibitions. No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

(i) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, waste-streams with a

closed-cup flashpoint of less than one hundred forty degrees (140°) Fahrenheit (sixty degrees (60°) centigrade) using the test methods specified in 40 C.F.R. 261.21;

(ii) Wastewater having a pH less than 5.0 or more than 9.5, or otherwise causing corrosive structural damage to the POTW or equipment;

(iii) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference but in no case solids greater than one-half inch (1/2") or one and twenty-seven-hundredths centimeters (1.27 cm) in any dimension;

(iv) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;

(v) Wastewater having a temperature greater than one hundred forty degrees (140°) Fahrenheit (sixty degrees (60°) centigrade), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed one hundred four degrees (104°) Fahrenheit (forty degrees (40°) centigrade);

(vi) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;

(vii) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;

(viii) Trucked or hauled pollutants, except at discharge points designated by the director in accordance with § 18-303(4) of this chapter;

(ix) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;

(x) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating Johnson City's NPDES permit;

(xi) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable state or federal regulations;

(xii) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, de-ionized water,

noncontact cooling water, and unpolluted wastewater, unless specifically authorized;

(xiii) Sludges, screenings, or other residues from the pretreatment of industrial wastes;

(xiv) Medical wastes, except as specifically authorized by the director;

(xv) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail toxicity test;

(xvi) Detergents, surface-active agents, or other substances which that might cause excessive foaming in the POTW;

(xvii) Fats, oils, or greases of animal or vegetable origin in concentrations greater than one hundred (100) mg/l for IUs. FSEs are required to comply with the rules contained in the Johnson City FOG Policy;

(xviii) Wastewater causing two (2) readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than seven percent (7%) or any single reading over ten percent (10%) of the lower explosive limit of the meter;

(xix) Hazardous waste, except as specifically authorized by the director.

Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW.

(2) National categorical pretreatment standards. Users must comply with the categorical pretreatment standards found at 40 C.F.R. chapter I, subchapter N, parts 405–471.

(a) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the director may impose equivalent concentration or mass limits in accordance with § 18-302(2)(d) and (e).

(b) When the limits in a categorical pretreatment standard are expressed only in terms of mass of pollutant per unit of production, the director may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual industrial users.

(c) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the director shall impose an alternate limit in accordance with Tennessee Rule 1200-4-14-.06(5).

(d) When a categorical pretreatment standard is expressed only in terms of pollutant concentrations, an industrial user may request that Johnson City convert the limits to equivalent mass limits. The

determination to convert concentration limits to mass limits is within the discretion of the director. Johnson City may establish equivalent mass limits only if the industrial user meets all the conditions set forth in § 18-302(2)(d)(i)(A) through (E) below.

(i) To be eligible for equivalent mass limits, the industrial user must:

(A) Employ, or demonstrate that it will employ, water conservation methods and technologies that substantially reduce water use during the term of its individual wastewater discharge permit;

(B) Currently use control and treatment technologies adequate to achieve compliance with the applicable categorical pretreatment standard, and not have used dilution as a substitute for treatment;

(C) Provide sufficient information to establish the facility's actual average daily flow rate for all waste-streams, based on data from a continuous effluent flow monitoring device, as well as the facility's long-term average production rate. Both the actual average daily flow rate and the long-term average production rate must be representative of current operating conditions;

(D) Not have daily flow rates, production levels, or pollutant levels that vary so significantly that equivalent mass limits are not appropriate to control the discharge; and

(E) Have consistently complied with all applicable categorical pretreatment standards during the period prior to the industrial user's request for equivalent mass limits.

(ii) An industrial user subject to equivalent mass limits must:

(A) Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;

(B) Continue to record the facility's flow rates through the use of a continuous effluent flow monitoring device;

(C) Continue to record the facility's production rates and notify the director whenever production rates are expected to vary by more than twenty percent (20%) from its baseline production rates determined in subsection (2)(d)(i)(C) of this section. Upon notification of a revised production rate, the director will reassess the equivalent mass limit and revise the limit as necessary to reflect changed conditions at the facility; and

(D) Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to subsection (2)(d)(i)(A) of this section so long as it discharges under an equivalent mass limit.

(iii) When developing equivalent mass limits, the director:

(A) Will calculate the equivalent mass limit by multiplying the actual average daily flow rate of the regulated process(es) of the industrial user by the concentration-based daily maximum and monthly average standard for the applicable categorical pretreatment standard and the appropriate unit conversion factor;

(B) Upon notification of a revised production rate, will reassess the equivalent mass limit and recalculate the limit as necessary to reflect changed conditions at the facility; and

(C) May retain the same equivalent mass limit in subsequent individual wastewater discharge permit terms if the industrial user's actual average daily flow rate was reduced solely as a result of the implementation of water conservation methods and technologies, and the actual average daily flow rates used in the original calculation of the equivalent mass limit were not based on the use of dilution as a substitute for treatment pursuant to § 18-302(6). The industrial user must also be in compliance with § 18-313(3) regarding the prohibition of bypass.

(e) The director may convert the mass limits of the categorical pretreatment standards of 40 C.F.R. parts 414, 419, and 455 to concentration limits for purposes of calculating limitations applicable to individual industrial users. The conversion is at the discretion of the director.

(f) Once included in its permit, the industrial user must comply with the equivalent limitations developed in this § 18-302(2) in lieu of the promulgated categorical standards from which the equivalent limitations were derived.

(g) Many categorical pretreatment standards specify one (1) limit for calculating maximum daily discharge limitations and a second limit for calculating maximum monthly average, or four (4) day average, limitations. Where such standards are being applied, the same production or flow figure shall be used in calculating both the average and the maximum equivalent limitation.

(h) Any industrial user operating under a permit incorporating equivalent mass or concentration limits calculated from a production-based standard shall notify the director within two (2)

business days after the user has a reasonable basis to know that the production level will significantly change within the next calendar month. Any user not notifying the director of such anticipated change will be required to meet the mass or concentration limits in its permit that were based on the original estimate of the long term average production rate.

(3) State pretreatment standards. Users must comply with state pretreatment standards as found in Tennessee Rule 1200-04-14.

(4) Local limits. (a) The director is authorized to establish local limits pursuant to Tennessee Rule 1200-4-14-.05(3).

(b) The director shall establish a policy granting industrial users concentration based limits based on the allowable headworks loadings as periodically revised. The policy shall be developed to equitably distribute the available mass loading for each drainage basin; allow for a reasonable percentage in reserve for future industrial users; and allow for a reasonable safety factor to protect against pass through and interference.

(c) The director may develop Best Management Practices (BMPs), by ordinance or in individual wastewater discharge permits or general permits, to implement local limits and the requirements of § 18-302(1).

(5) Johnson City's right of revision. The City of Johnson City reserves the right to establish, by ordinance or in individual wastewater discharge permits or in general permits, more stringent standards or requirements on discharges to the POTW consistent with the purpose of this chapter.

(6) Dilution. No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The director may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

(7) Requirements for proper wastewater disposal. (a) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City Limits of the City of Johnson City, and human or animal excrement, garbage, or other objectionable waste.

(b) It shall be unlawful to discharge to any water of the State of Tennessee within the City Limits of the City of Johnson City any sewage, wastewater, or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.

(c) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or

other facility intended or used for the disposal of sewage, wastewater, or other polluted waters within the City Limits of the City of Johnson City.

(d) Except as provided in § 18-302(1)(f), the owner of all houses, buildings, or properties used for human occupancy, recreation, employment, or other purposes situated within the city limits and abutting on any street, alley, right-of-way, or easement in which there is now located a public sanitary sewer in the city limits, is hereby required as his/her expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter, within sixty (60) days after an official notice to do so, provided that said public sewer is within two hundred feet (200') of the building drain as defined herein. The city may begin billing monthly sewer use charges after notifying the owner that a public sanitary sewer is available.

(e) Where a public sanitary sewer is not available under the provisions of § 18-302(7)(d), the building sewer shall be connected to a private sewage disposal system complying with § 18-315(1) of this chapter.

(f) The owner of a manufacturing facility may discharge wastewater to the waters of the State of Tennessee 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.

(8) Physical connection to the publicly owned treatment works.

(a) No unauthorized person shall uncover, make any connection with or opening into, use, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the building inspector for locations inside the city limits and/or the director for locations outside the city limits.

(b) A separate and independent building sewer shall be provided for every building; except where one (1) building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one (1) building sewer.

(c) Old building sewers may be used in connection with new buildings only when they are found on examination and tested by the building inspector or director to meet all requirements of this chapter.

(d) 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.

(e) Building sewer shall conform to the following requirements:

(i) The minimum size of a building sewer shall be four inches (4").

(ii) The minimum dept of a building sewer shall be eighteen inches (18").

(iii) Three inch (3") and larger building sewer shall be laid on a grade minimum of 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) Slope and alignment of all building sewers shall be neat and regular.

(v) Building sewer shall be constructed of:

(A) Lined cast or ductile iron soil pipe with compression joints of approved type;

(B) Polyvinyl Chloride (PVC) pipe with solvent welded or rubber compression joints of approved type; minimum thickness Schedule 40;

(C) ABS composite sewer pipe with solvent welded or with rubber compression joints of an approved type;

(D) Concrete sewer pipe using rubber or neoprene compression joints of an approved type; or

(E) Such other material of equal or superior quality as maybe approved by the building inspector or director. Cement mortar and leaded joints are expressly prohibited.

(vi) A cleanout shall be located no more than five feet (5') outside of the building, one (1) as it taps on to the utility lateral and one (1) at each change in direction of the building sewer which is greater than forty-five degrees (45°). Additional cleanouts shall be placed not more than seventy-five feet (75') apart in horizontal building sewers of four inch (4") nominal diameter and not more than one hundred feet (100') apart for larger pipes. Cleanouts shall be extended to or above the finished grade level directly above the place where the cleanout is installed. A Y and one-eighth (1/8) bend shall be used for the cleanout base. Cleanouts shall have a minimum size of four inches (4").

(vii) Connections of building sewer to the publicly owned treatment works shall be made at the appropriate existing wye or tee branch using compression type couplings or collar type rubber joint with corrosion resistant or stainless steel bands. Where existing wye or tee branches are not available, connections of building services shall be made at the tee, wye, saddle, or manhole installed or inspected by the city.

(viii) The building sewer may be brought into the building below the basement floor when gravity flow from the building to the sanitary sewer is at a grade of one-eighth inch (1/8") per foot or more if possible. In cases where the basement or floor levels are lower than the ground elevation at the point of connection to the sewer, adequate precautions by installation of check valves or other backflow prevention devices to protect against flooding shall be provided by the owner. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer at the expense of the owner.

(ix) All installed building sewer shall be gas and water tight.

(x) 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 the appropriate ASTM and Water Pollution Control Federation Manual of Practice No. 9. Any deviation from the prescribed procedures and materials must be approved by the building inspector or director before installation.

(9) Inspection of connections. (a) The sewer connection and all building sewers from the building to the POTW shall be inspected before the underground portion is covered. Inspections are to be made by the building inspector inside the city limits or the director or duly authorized representative of the director outside the city limits.

(b) The applicant for discharge shall notify the building inspector or director when the building sewer is ready for inspection.

(10) Maintenance of building sewers. Each individual property owner or user of the POTW shall be entirely responsible for the maintenance of the building sewer located on private property. This maintenance will include repair or replacement of the service line as deemed necessary by the director or building inspector. (1985 Code, § 19-88, as replaced by Ord. #4407-11, Aug. 2011)

18-303. Pretreatment of wastewater. (1) Pretreatment facilities. Users shall provide wastewater treatment as necessary to comply with this chapter and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in § 18-302(1) of this chapter within the time limitations specified by EPA, the state, or the director, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans

describing such facilities and operating procedures shall be submitted to the director for review, and shall be acceptable to the director before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to Johnson City under the provisions of this chapter.

(2) Additional pretreatment measures. (a) Whenever deemed necessary, the director may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste-streams from industrial waste-streams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this chapter.

(b) The director may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. An individual wastewater discharge permit or a general permit may be issued solely for flow equalization.

(c) Grease, oil, sand interceptors shall be provided in accordance with the city's FOG policy.

(d) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

(3) Accidental discharge/slug discharge control plans. The director shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control slug discharges. The director may require any user to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control slug discharges. Alternatively, the director may develop such a plan for any user. An accidental discharge/slug discharge control plan shall address, at a minimum, the following:

(a) Description of discharge practices, including non-routine batch discharges;

(b) Description of stored chemicals;

(c) Procedures for immediately notifying the director of any accidental or slug discharge, as required by § 18-306(6) of this chapter; and

(d) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

(4) Hauled wastewater. (a) Septic tank waste may be introduced into the POTW only at locations designated by the director, and at such times as are established by the director. Such waste shall not violate § 18-302 of this chapter or any other requirements established by Johnson City. The director will require septic tank waste haulers to obtain individual wastewater discharge permits or general permits.

(b) The director will require haulers of industrial waste to obtain individual wastewater discharge permits or general permits. The director may require generators of hauled industrial waste to obtain individual wastewater discharge permits or general permits. The director also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this chapter.

(c) Industrial waste haulers may discharge loads and clean equipment only at locations designated by the director. No load may be discharged without prior consent of the director. The director may collect samples of each hauled load to ensure compliance with applicable standards. The director may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

(d) Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes. (1985 Code, § 19-88.1, as replaced by Ord. #4407-11, Aug. 2011)

18-304. Individual wastewater discharge permits and general permits. (1) Wastewater analysis. When requested by the director, a user must submit information on the nature and characteristics of its wastewater within thirty (30) days of the request. The director is authorized to prepare a form for this purpose and may periodically require users to update this information.

(2) Individual wastewater discharge permit and general permit requirement. (a) No significant industrial user shall discharge wastewater into the POTW without first submitting an application to and receiving approval from the director for discharge.

(b) The director may require other users to obtain individual wastewater discharge permits or general permits as necessary to carry out the purposes of this chapter.

(c) Any violation of the terms and conditions of an individual wastewater discharge permit or a general permit shall be deemed a violation of this chapter and subjects the wastewater discharge permittee

to the sanctions set out in §§ 18-310 through 18-312 of this chapter. Obtaining an individual wastewater discharge permit or a general permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state, and local law.

(3) Individual wastewater discharge and general permitting: existing connections. Any user required to obtain an individual wastewater discharge permit or a general permit who was discharging wastewater into the POTW prior to the effective date of the ordinance comprising this chapter and who wishes to continue such discharges in the future, shall, within one hundred eighty (180) days after said date, apply to the director for an individual wastewater discharge permit or a general permit in accordance with § 18-304(5) of this chapter, and shall not cause or allow discharges to the POTW to continue after one (1) year of the effective date of the ordinance comprising this chapter except in accordance with an individual wastewater discharge permit or a general permit issued by the director.

(4) Individual wastewater discharge and general permitting: new connections. Any user required to obtain an individual wastewater discharge permit or a general permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this individual wastewater discharge permit or general permit, in accordance with § 18-304(5) of this chapter, must be filed at least ninety (90) days prior to the date upon which any discharge will begin or recommence.

(5) Individual wastewater discharge and general permit application contents. (a) All users required to obtain an individual wastewater discharge permit or a general permit must submit a permit application. Users that are eligible may request a general permit under § 18-304(6). The director may require users to submit all or some of the following information as part of a permit application:

(i) Identifying information.

(A) The name and address of the facility, including the name of the operator and owner.

(B) Contact information, description of activities, facilities, and plant production processes on the premises.

(ii) Environmental permits. A list of any environmental control permits held by or for the facility.

(iii) Description of operations.

(A) A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic

process diagram, which indicates points of discharge to the POTW from the regulated processes;

(B) Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;

(C) Number and type of employees, hours of operation, and proposed or actual hours of operation;

(D) Type and amount of raw materials processed (average and maximum per day);

(E) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge.

(iv) Time and duration of discharges.

(v) The location for monitoring all wastes covered by the permit.

(vi) 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 set out in § 18-302(2)(c) (Tennessee Rule 1200-4-14-.06(5)).

(vii) 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 director, of regulated pollutants in the discharge from each regulated process.

(C) Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported.

(D) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in § 18-306(10) of this chapter. Where the standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the director or the applicable standards to determine compliance with the standard.

(E) Sampling must be performed in accordance with procedures set out in § 18-306(10) of this chapter.

(viii) Any requests for a monitoring waiver (or a renewal of an approved monitoring waiver) for a pollutant neither present nor expected to be present in the discharge based on § 18-306(4)(b) [2300-4-14-.12(5)(b)].

(ix) Any request to be covered by a general permit based on § 18-304(6).

(x) Any other information as may be deemed necessary by the director to evaluate the permit application.

(b) Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

(6) Wastewater discharge permitting: general permits. (a) At the discretion of the director, the director may use general permits to control SIU discharges to the POTW if the following conditions are met. All facilities to be covered by a general permit must:

(i) Involve the same or substantially similar types of operations;

(ii) Discharge the same types of wastes;

(iii) Require the same effluent limitations;

(iv) Require the same or similar monitoring; and

(v) In the opinion of the director, are more appropriately controlled under a general permit than under individual wastewater discharge permits.

(b) To be covered by the general permit, the SIU must file a written request for coverage that identifies its contact information, production processes, the types of wastes generated, the location for monitoring all wastes covered by the general permit, any requests in accordance with § 18-306(4)(b) for a monitoring waiver for a pollutant neither present nor expected to be present in the discharge, and any other information the POTW deems appropriate. A monitoring waiver for a pollutant neither present nor expected to be present in the discharge is not effective in the general permit until after the director has provided written notice to the SIU that such a waiver request has been granted in accordance with § 18-306(4)(b).

(c) The director will retain a copy of the general permit, documentation to support the POTW's determination that a specific SIU meets the criteria in § 18-304(6)(a)(i) to (v) and applicable state regulations, and a copy of the user's written request for coverage for three (3) years after the expiration of the general permit.

(d) The director may not control an SIU through a general permit where the facility is subject to production-based categorical pretreatment standards or categorical pretreatment standards expressed as mass of pollutant discharged per day or for IUs whose limits are based on the combined waste-stream formula (§ 18-302(2)(c)) or net/gross calculations (§ 18-302(2)(d)).

(7) Application signatories and certifications. (a) All wastewater discharge permit applications, user reports and certification statements must be signed by an authorized representative of the user and contain the certification statement in § 18-306(13)(a).

(b) If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this section must be submitted to the director prior to or together with any reports to be signed by an authorized representative.

(c) A facility determined to be a non-significant categorical industrial user by the director pursuant to § 18-301(4)(mm)(iii) must annually submit the signed certification statement in § 18-306(13)(b).

(8) Individual wastewater discharge and general permit decisions.

(a) The director will evaluate the data furnished by the user and may require additional information. Within thirty (30) days of receipt of a complete permit application, the director will determine whether to issue an individual wastewater discharge permit or a general permit. The director may deny any application for an individual wastewater discharge permit or a general permit.

(b) The receipt by the city of a prospective customer's application for a wastewater discharge or general permit shall not obligate the city to render the wastewater collection and treatment services. 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. (1985 Code, § 19-89, as replaced by Ord. #4407-11, Aug. 2011)

18-305. Individual wastewater discharge and general permit issuance. (1) Individual wastewater discharge and general permit duration. An individual wastewater discharge permit or a general permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. An individual wastewater discharge permit or a general permit may be issued for a period less than five (5) years at the discretion of the director. Each individual wastewater discharge permit or a general permit will indicate a specific date upon which it will expire.

(2) Individual wastewater discharge permit and general permit contents. An individual wastewater discharge permit or a general permit shall include such conditions as are deemed reasonably necessary by the director to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety,

facilitate sludge management and disposal, and protect against damage to the POTW.

(a) Individual wastewater discharge permits and general permits must contain:

(i) A statement that indicates the wastewater discharge permit issuance date, expiration date and effective date;

(ii) A statement that the wastewater discharge permit is nontransferable without prior notification to Johnson City in accordance with § 18-305(5) of this chapter, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;

(iii) Effluent limits, including best management practices, based on applicable pretreatment standards;

(iv) 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;

(v) The process for seeking a waiver from monitoring for a pollutant neither present nor expected to be present in the discharge in accordance with § 18-306(4)(b);

(vi) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state, or local law;

(vii) Requirements to control slug discharge, if determined by the director to be necessary;

(viii) Any grant of the monitoring waiver by the director (§ 18-306(4)(b)) must be included as a condition in the user's permit or other control mechanism.

(b) Individual wastewater discharge permits or general permits may contain, but need not be limited to, the following conditions:

(i) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;

(ii) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;

(iii) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;

(iv) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;

(v) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;

(vi) Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;

(vii) A statement that compliance with the individual wastewater discharge permit or the general permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the individual wastewater discharge permit or the general permit; and

(viii) Other conditions as deemed appropriate by the director to ensure compliance with this chapter, and state and federal laws, rules, and regulations.

(3) Permit modification. (a) The director may modify an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:

(i) To incorporate any new or revised federal, state, or local pretreatment standards or requirements;

(ii) To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of the individual wastewater discharge permit issuance;

(iii) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

(iv) Information indicating that the permitted discharge poses a threat to Johnson City's POTW, city personnel, or the receiving waters;

(v) Violation of any terms or conditions of the individual wastewater discharge permit;

(vi) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;

(vii) Revision of or a grant of variance from categorical pretreatment standards pursuant to Tennessee Rule 1200-4-14-.13;

(viii) To correct typographical or other errors in the individual wastewater discharge permit; or

(ix) To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with § 18-305(5).

(b) The director may modify a general permit for good cause, including, but not limited to, the following reasons:

(i) To incorporate any new or revised federal, state, or local pretreatment standards or requirements;

(ii) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

(iii) To correct typographical or other errors in the individual wastewater discharge permit; or

(iv) To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with § 18-305(5).

(4) Individual wastewater discharge permit and general permit transfer. Individual wastewater discharge permits or coverage under general permits may be transferred to a new owner or operator only if the permittee gives at least thirty (30) days advance notice to the director and the director approves the individual wastewater discharge permit or the general permit coverage transfer. The notice to the director must include a written certification by the new owner or operator which:

(a) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;

(b) Identifies the specific date on which the transfer is to occur; and

(c) Acknowledges full responsibility for complying with the existing individual wastewater discharge permit or general permit.

Failure to provide advance notice of a transfer renders the individual wastewater discharge permit or coverage under the general permit void as of the date of facility transfer.

(5) Individual wastewater discharge permit and general permit revocation. The director may revoke an individual wastewater discharge permit or coverage under a general permit for good cause, including, but not limited to, the following reasons:

(a) Failure to notify the director of significant changes to the wastewater prior to the changed discharge;

(b) Failure to provide prior notification to the director of changed conditions pursuant to § 18-306(5) of this chapter;

(c) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;

(d) Falsifying self-monitoring reports and certification statements;

(e) Tampering with monitoring equipment;

(f) Refusing to allow the director timely access to the facility premises and records;

(g) Failure to meet effluent limitations;

(h) Failure to pay fines;

(i) Failure to pay sewer charges;

(j) Failure to meet compliance schedules;

(k) Failure to complete a wastewater survey or the wastewater discharge permit application;

(l) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or

(m) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or the general permit or this chapter.

Individual wastewater discharge permits or coverage under general permits shall be voidable upon cessation of operations or transfer of business ownership. All individual wastewater discharge permits or general permits issued to a user are void upon the issuance of a new individual wastewater discharge permit or a general permit to that user.

(6) Individual wastewater discharge permit and general permit reissuance. User with an expiring individual wastewater discharge permit or general permit shall apply for individual wastewater discharge permit or general permit reissuance by submitting a complete permit application, in accordance with § 18-304(5) of this chapter, a minimum of ninety (90) days prior to the expiration of the user's existing individual wastewater discharge permit or general permit. (1985 Code, § 19-90, as replaced by Ord. #4407-11, Aug. 2011)

18-306. Reporting requirements. (1) Baseline monitoring reports.

(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 POTW shall submit to the director a report which contains the information listed in subsection (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 director a report which contains the information listed in subsection (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) All information required in §§ 18-304(5)(a)(i)(A)(2), 18-304(5)(a)(iii)(A), and 18-304(5)(a)(vi).

(ii) Measurement of pollutants.

(A) The user shall provide the information required in § 18-304(5)(a)(vii)(A) through (D).

(B) The user shall take a minimum of one (1) representative sample to compile that data necessary to comply with the requirements of this subsection.

(C) 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 in Tennessee Rule 1200-4-14-.06(5) to evaluate compliance with the pretreatment standards. Where an alternate concentration or mass limit has been calculated in accordance with Tennessee Rule 1200-4-14-.06(5) this adjusted limit along with supporting data shall be submitted to the control authority.

(D) Sampling and analysis shall be performed in accordance with § 18-306(10).

(E) The director 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.

(F) The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.

(iii) Compliance certification. A statement, reviewed by the user's authorized representative as defined in § 18-301(4)(c) 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.

(iv) 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 § 18-306(2) of this chapter.

(v) Signature and report certification. All baseline monitoring reports must be certified in accordance with § 18-306(13)(a) of this chapter and signed by an authorized representative as defined in § 18-301(4)(c).

(2) Compliance schedule progress reports. The following conditions shall apply to the compliance schedule required by § 18-306(1)(b)(iv) 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 without approval of the director;

(c) The user shall submit a progress report to the director 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 director.

(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 POTW, any user subject to such pretreatment standards and requirements shall submit to the director a report containing the information described in §§ 18-304(5)(a)(vi) and (vii) and 18-306(1)(b)(ii) of this chapter. For users subject to equivalent mass or concentration limits established in accordance with the procedures in § 18-302(2), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with § 18-306(13)(a) of this chapter. All sampling will be done in conformance with § 18-306(10).

(4) Periodic compliance reports. (a) All significant industrial users must, at a frequency determined by the director submit no less than twice per year 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 director or the pretreatment standard necessary to determine the compliance status of the user.

(b) The City of Johnson City may authorize an industrial user subject to a categorical pretreatment standard to forego sampling of a pollutant regulated by a categorical pretreatment standard if the industrial user has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the industrial user. [see Tennessee Rule 1200-4-14-.12(5)(b)] This authorization is subject to the following conditions:

(i) The waiver may be authorized where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility provided that the sanitary wastewater is not regulated by an applicable categorical standard and otherwise includes no process wastewater.

(ii) The monitoring waiver is valid only for the duration of the effective period of the individual wastewater discharge permit, but in no case longer than five (5) years. The user must submit a new request for the waiver before the waiver can be granted for each subsequent individual wastewater discharge permit. See § 18-304(5)(a)(viii).

(iii) In making a demonstration that a pollutant is not present, the industrial user must provide data from at least one (1) sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes.

(iv) The request for a monitoring waiver must be signed in accordance with § 18-301(4)(c), and include the certification statement in § 18-306(13)(a) (Tennessee Rule 1200-4-14-.06(1)(b)2).

(v) Non-detectable sample results may be used only as a demonstration that a pollutant is not present if the EPA approved method from 40 C.F.R. part 136 with the lowest minimum detection level for that pollutant was used in the analysis.

(vi) Any grant of the monitoring waiver by the director must be included as a condition in the user's permit. The reasons

supporting the waiver and any information submitted by the user in its request for the waiver must be maintained by the director for three (3) years after expiration of the waiver.

(vii) Upon approval of the monitoring waiver and revision of the user's permit by the director, the industrial user must certify on each report with the statement in § 18-306(13)(c) below, that there has been no increase in the pollutant in its waste stream due to activities of the industrial user.

(viii) In the event that a waived pollutant is found to be present or is expected to be present because of changes that occur in the user's operations, the user must immediately: comply with the monitoring requirements of § 18-306(4)(a), or other more frequent monitoring requirements imposed by the director, and notify the director.

(ix) This provision does not supersede certification processes and requirements established in categorical pretreatment standards, except as otherwise specified in the categorical pretreatment standard.

(c) All periodic compliance reports must be signed and certified in accordance with § 18-306(13)(a) of this chapter.

(d) 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.

(e) 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 director, using the procedures prescribed in § 18-306(11) of this chapter, the results of this monitoring shall be included in the report.

(f) If a user opts to send electronic (digital) documents to the city to satisfy the requirements of this section, the user must confirm with the director the most recent form of transmittal accepted.

(5) Reports of changed conditions. Each user must notify the director 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 director 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 § 18-304(5) of this chapter.

(b) The director may issue an individual wastewater discharge permit or a general permit under § 18-305(7) of this chapter or modify an

existing wastewater discharge permit or a general permit under § 18-305(4) of this chapter in response to changed conditions or anticipated changed conditions.

(6) Reports of potential problems. (a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, a slug discharge or slug load, that might cause potential problems for the POTW, the user shall immediately telephone and notify the director 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 seven (7) days following such discharge, the user shall, unless waived by the director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which might be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this chapter.

(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 (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 director immediately of any changes at its facility affecting the potential for a slug discharge.

(7) Reports from unpermitted users. All users not required to obtain an individual wastewater discharge permit or general permit shall provide appropriate reports to the director as the director may require.

(8) Notice of violation/repeat sampling and reporting. If sampling performed by a user indicates a violation, the user must notify the director 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 director within thirty (30) days after becoming aware of the violation. Re-sampling by the industrial user is not required if Johnson City performs sampling at the user's facility at least once a month, or if Johnson City performs sampling at the user between the time when the initial sampling was conducted and the time when the user or Johnson City receives the results of this sampling, or if Johnson City has performed the sampling and analysis in lieu of the industrial user.

(9) 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 C.F.R. part 136 and amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard. If 40 C.F.R. 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 director or other parties approved by EPA.

(10) 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 subsection (b) and (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 director. Where time-proportional composite sampling or grab sampling is authorized by Johnson City, the samples must be representative of the discharge. Using protocols, including appropriate preservation, specified in 40 C.F.R. 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 Johnson 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 § 18-306(1) and (3) [Tennessee Rule 1200-4-12-.12(2) and (4)], a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the director may authorize a lower minimum. For the reports required by § 18-306(4) (Tennessee Rule 1200-4-14-.12(5) and (8)), the industrial user is required to collect the number of grab samples necessary to assess and assure compliance by with applicable pretreatment standards and requirements.

(11) Date of receipt of reports. Written reports will be deemed to have been submitted on the date postmarked. For reports, which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

(12) Recordkeeping. Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this chapter, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with best management practices established under § 18-302(4)(c). 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 Johnson City, or where the user has been specifically notified of a longer retention period by the director.

(13) Certification statements. (a) Certification of permit applications, user reports and initial monitoring waiver. The following certification statement is required to be signed and submitted by users submitting permit applications in accordance with § 18-304(7); users submitting baseline monitoring reports under § 18-306(1)(b)(v); users submitting reports on compliance with the categorical pretreatment standard deadlines under § 18-306(3); users submitting periodic compliance reports required by 18-306(4)(a) through (d), and users submitting an initial request to forego sampling of a pollutant on the basis of § 18-306(4)(b)(iv). The following certification statement must be signed by an authorized representative as defined in § 18-301(4)(c):

> 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.

(b) Annual certification for non-significant categorical industrial users. A facility determined to be a non-significant categorical industrial

user by the director pursuant to §§ 18-301(4)(mm)(iii) and 18-304(7) must annually submit the following certification statement signed in accordance with the signatory requirements in § 18-301(4)(c). This certification must accompany an alternative report required by the director:

> Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical Pretreatment Standards under 40 C.F.R. ____, I certify that, to the best of my knowledge and belief that during the period from _____, _____ to _____, _____ [months, days, year]:
> (a) The facility described as _____ [facility name] met the definition of a Non-Significant Categorical Industrial User as described in § 18-301(4)(mm)(iii);
> (b) The facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and
> (c) The facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period.
> This compliance certification is based on the following information.
> _____
> _____

(c) Certification of pollutants not present. Users that have an approved monitoring waiver based on § 18-306(4)(b) must certify on each report with the following statement that there has been no increase in the pollutant in its wastestream due to activities of the user.

> Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 C.F.R. _____ [specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of _____ [list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report under § 18-306(4)(a). (1985 Code, § 19-91, as replaced by Ord. #4407-11, Aug. 2011)

18-307. <u>Compliance monitoring</u>. (1) <u>Right of entry: inspection and sampling</u>. The director shall have the right to enter the premises of any user to

determine whether the user is complying with all requirements of this chapter and any individual wastewater discharge permit or general permit or order issued hereunder. Users shall allow the director ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

(a) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the director shall be permitted to enter without delay for the purposes of performing specific responsibilities.

(b) The director shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.

(c) The director may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated annually to ensure their accuracy or as required by the director.

(d) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the director and shall not be replaced. The costs of clearing such access shall be born by the user.

(e) Unreasonable delays in allowing the director access to the user's premises shall be a violation of this chapter.

(2) Search warrants. If the director has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of Johnson City designed to verify compliance with this chapter or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, the director may seek issuance of a search warrant from the appropriate court of jurisdiction. (1985 Code, § 19-92, as replaced by Ord. #4407-11, Aug. 2011)

18-308. Confidential information. Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, individual wastewater discharge permits, general permits, and monitoring programs, and from the director's inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the director, that the release of

such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable state law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data, as defined at 40 C.F.R. 2.302 shall not be recognized as confidential information and shall be available to the public without restriction. (1985 Code, § 19-93, as replaced by Ord. #4407-11, Aug. 2011)

18-309. Publication of users in significant noncompliance. The director shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of the users which, at any time during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall be applicable to all significant industrial users (or any other industrial user that violates subsections (3), (4) or (8) of this section) and shall mean:

(1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits as defined in § 18-302;

(2) 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 equals or exceeds the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by § 18-302 multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

(3) Any other violation of a pretreatment standard or requirement as defined by § 18-302 (daily maximum, long-term average, instantaneous limit, or narrative standard) that the director determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;

(4) Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the director's exercise of its emergency authority to halt or prevent such a discharge;

(5) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or a general permit or enforcement order for starting construction, completing construction, or attaining final compliance;

(6) Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(7) Failure to accurately report noncompliance; or

(8) Any other violation(s), which may include a violation of best management practices, which the director determines will adversely affect the operation or implementation of the local pretreatment program. (1985 Code, § 19-94, as replaced by Ord. #4407-11, Aug. 2011)

18-310. Administrative enforcement remedies. (1) Notification of violation. When the director finds that a user has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other pretreatment standard or requirement, the director may serve upon that user a written notice of violation. Within seven (7) days of the receipt of such notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the director. Submission of such a plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the director to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(2) Consent orders. The director may enter into consent orders, assurances of compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents shall include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to § 18-310(4) and (5) of this chapter and shall be judicially enforceable.

(3) Show cause hearing. The director may order a user which has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the director and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified

mail (return receipt requested) at least thirty (30) days prior to the hearing. Such notice may be served on any authorized representative of the user as defined in § 18-301(4)(c) and required by § 18-304(7)(a). A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

(4) Compliance orders. When the director finds that a user has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other pretreatment standard or requirement, the director may issue 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 time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may 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 pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(5) Cease and desist orders. When the director finds that a user has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the director may issue an order to the user directing it to cease and desist all such violations and directing the user to:

(a) Immediately comply with all requirements; and

(b) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(6) Administrative fines. (a) When the director finds that a user has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other pretreatment standard or requirement, the director may fine such user in an amount not to exceed ten thousand dollars ($10,000.00) or the maximum fine allowed under State of Tennessee law, whichever is greater at the time of violation. Such fines shall be assessed on a per-violation, per-day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.

(b) Users desiring to dispute such fines must file a written request for the director to reconsider the fine along with full payment of the fine amount within fifteen (15) days of being notified of the fine. Where a request has merit, the director may convene a hearing on the matter. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The director may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

(c) Other fines may be levied in accordance with the city's enforcement response plan.

(d) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.

(7) Emergency suspensions. The director may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge, which reasonably appears to present, or cause an imminent or substantial endangerment to the health or welfare of persons. The director may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

(a) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the director may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The director may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the director that the period of endangerment has passed, unless the termination proceedings in § 18-310(8) of this chapter are initiated against the user.

(b) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the director prior to the date of any show cause or termination hearing under §§ 18-310(3) or 18-310(8) of this chapter.

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

(8) Termination of discharge. In addition to the provisions in § 18-305(6) of this chapter, any user who violates the following conditions is subject to discharge termination:

(a) Violation of individual wastewater discharge permit or general 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; or

(e) Violation of the pretreatment standards in § 18-302 of this chapter.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under § 18-310(3) of this chapter why the proposed action should not be taken. Exercise of this option by the director shall not be a bar to, or a prerequisite for, taking any other action against the user. (1985 Code, § 19-95, as amended by Ord. #3379, April 1996, and Ord. #3500, July 1997, and replaced by Ord. #4407-11, Aug. 2011)

18-311. Judicial enforcement remedies. (1) Injunctive relief. When the director finds that a user has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other pretreatment standard or requirement, the director may petition the appropriate court of jurisdiction through Johnson City's legal counsel for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the individual wastewater discharge permit, the general permit, order, or other requirement imposed by this chapter on activities of the user. The director may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

(2) Civil penalties. (a) A user who has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other pretreatment standard or requirement shall be liable to Johnson City for a maximum civil penalty of ten thousand dollars ($10,000.00) or the maximum fine allowed under State of Tennessee law, whichever is greater at the time of violation but not less than one thousand dollars ($1,000.00) per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

(b) The director may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by Johnson City.

(c) In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

(d) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

(3) Criminal prosecution. (a) A user who willfully or negligently violates any provision of this chapter, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than ten thousand dollars ($10,000.00) or the maximum fine allowed under State of Tennessee law, whichever is greater at the time of violation per violation, per day, or imprisonment for not more than the maximum allowed under State of Tennessee law, or both.

(b) A user who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a monetary penalty, or be subject to imprisonment, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.

(c) A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this chapter, individual wastewater discharge permit, or general permit or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter shall, upon conviction, be punished by a fine of not more than ten thousand dollars ($10,000.00) or the maximum fine allowed under State of Tennessee law, whichever is greater at the time of violation per violation, per day, or imprisonment, or both.

(d) In the event of a second conviction, a user shall be punished by a fine of not more than ten thousand dollars ($10,000.00) or the maximum fine allowed under State of Tennessee law, whichever is greater at the time of violation per violation, per day, or imprisonment, or both.

(4) Remedies nonexclusive. The remedies provided for in this chapter are not exclusive. The director may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with Johnson City's Enforcement Response Plan. However, the director may take other action against any user when the

circumstances warrant. Further, the director is empowered to take more than one (1) enforcement action against any noncompliant user. (1985 Code, § 19-96, as replaced by Ord. #4407-11, Aug. 2011)

18-312. Supplemental enforcement action. (1) Liability insurance. The director may decline to issue or reissue an individual wastewater discharge or a general permit to any user who has failed to comply with any provision of this chapter, a previous individual wastewater discharge permit, or a previous general permit or order issued hereunder, or any other pretreatment standard or requirement, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.

(2) Payment of outstanding fees and penalties. The director may decline to issue or reissue an individual wastewater discharge permit or a general permit to any user who has failed to pay any outstanding fees, fines or penalties incurred as a result of any provision of this chapter, a previous individual wastewater discharge permit, or a previous general permit or order issued hereunder.

(3) Water supply severance. Whenever a user has violated or continues to violate any provision of this chapter, an individual wastewater discharge permit, a general permit, or order issued hereunder, or any other pretreatment standard or requirement, water service to the user may be severed. Service will recommence, at the user's expense, only after the user has satisfactorily demonstrated its ability to comply.

(4) Public nuisances. A violation of any provision of this chapter, an individual wastewater discharge permit, a general permit, or order issued hereunder, or any other pretreatment standard or requirement is hereby declared a public nuisance and shall be corrected or abated as directed by the director. Any person(s) creating a public nuisance shall be subject to the provisions of the city's ordinances governing such nuisances, including reimbursing Johnson City for any costs incurred in removing, abating, or remedying said nuisance. (1985 Code, § 19-97, as replaced by Ord. #4407-11, Aug. 2011)

18-313. Affirmative defenses to discharge violations. (1) Upset.

(a) For the purposes of this section, upset means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(b) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of subsection (c), below, are met.

(c) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(i) An upset occurred and the user can identify the cause(s) of the upset;

(ii) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and

(iii) The user has submitted the following information to the director within twenty-four (24) hours of becoming aware of the upset. If this information is provided orally, a written submission must be provided within five (5) days:

(A) A description of the indirect discharge and cause of noncompliance;

(B) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

(C) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

(d) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

(e) Users shall have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

(f) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

(2) Prohibited discharge standards. A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in § 18-302(1)(a) of this chapter or the specific prohibitions in § 18-302(1)(b)(iii) through (xix) of this chapter if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

(a) A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or

(b) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when Johnson City was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

(3) Bypass. (a) For the purposes of this section:

(i) Bypass means the intentional diversion of waste-streams from any portion of a user's treatment facility.

(ii) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(b) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of subsections (c) and (d) of this section.

(c) Bypass notifications. (i) If a user knows in advance of the need for a bypass, it shall submit prior notice to the director, at least ten (10) days before the date of the bypass, if possible.

(ii) A user shall submit oral notice to the director of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The director may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

(d) Bypass. (i) Bypass is prohibited, and the director may take an enforcement action against a user for a bypass, unless:

(A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have

been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(C) The user submitted notices as required under subsection (c) of this section.

(ii) The director may approve an anticipated bypass, after considering its adverse effects, if the director determines that it will meet the three (3) conditions listed in subsection (d)(i) of this section. (1985 Code, § 19-98, as replaced by Ord. #4407-11, Aug. 2011)

18-314. Wastewater treatment rates. (1) Purpose. It is the purpose of this section to provide for the equitable and reasonable recovery of costs from users of the POTW, including costs of operation, maintenance, administration, bond service costs, capital improvements, depreciation, and equitable cost recovery of EPA administered federal wastewater grants.

(2) Types of charges and fees. Fees and charges are payable at a time deemed appropriate by the director for the specific charge or fee. The charges and fees established by the city may include, but are not limited to:

(a) Building and sewer permit and inspection fees;

(b) Tapping fees;

(c) Sewer use charges;

(d) Surcharge fees;

(e) Fees for applications to discharge;

(f) Industrial wastewater discharge permit fees;

(g) Fees for industrial discharge monitoring;

(h) Fees for reviewing and responding to accidental discharge procedures and construction;

(i) Fees for filing appeals;

(j) Fees to recover administrative and legal costs associated with the enforcement activity taken by the director to address noncompliance;

(k) Fees for hauled waste; and

(l) Other fees as Johnson City may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this chapter and are separate from all other fees, fines, and penalties chargeable by Johnson City.

(3) Classification of users for charges and fees. Users of the wastewater system shall be classified into two (2) general classes or categories depending on the users' contribution of wastewater loads. The classes are defined in general terms. The director may decide to select the class for a user

based on loading conditions not specifically defined. Each class user is identified as follows:

(a) Class I or Domestic. Those users whose average BOD demand is two hundred milligrams per liter (200 mg/l) by weight or less, and whose suspended solids discharge is two hundred milligrams per liter (200 mg/l) by weight or less).

(b) Class II or Non-Domestic. Those users whose BOD demand exceeds two hundred milligrams per liter (200 mg/l) by weight and whose suspended solids discharge exceeds two hundred milligrams per liter (200 mg/l).

(4) Determination of costs. (a) The board of commissioners shall establish monthly rates and charges for the use of the POTW and the services supplied by the POTW. Said charges shall be based upon the cost categories of administrative costs, including but not limited to, billing and accounting costs; operation and maintenance costs of the POTW; and debt service costs.

(b) The determination of costs will be made on an annual basis. Adjustments to charges and fees may be made at any time in the fiscal year at the discretion of the director with the approval of the board of commissioners.

(c) All users shall pay a single unit charge expressed as dollars per thousand of gallons ($/1,000 gallons) purchased. The rate shall be the total cost to pay debt service, operate, and maintain the POTW divided by the total volume of wastewater from all users per year as determined from one (1) fiscal year to the next.

(d) The volume of water purchased which is used in the calculation of sewer use charges may be adjusted by the director if a user purchases a significant volume of water for consumptive use and does not discharge it to the public sewer such as filling swimming pools, industrial heating and humidifying equipment, etc. The user shall be responsible for documenting the quantity of waste discharged to the POTW and applying for a reduction.

(e) All Class II users shall pay a surcharge rate on the excessive amounts of pollutants discharged in direct proportion to the actual discharge quantities. The surcharges include but are not limited to any pollutant that increases the costs of operating and maintaining the POTW. The surcharge cost shall be determined by multiplying the volume of wastewater discharged by the difference between the actual and maximum discharge pollutant concentrations. The pollutant mass discharged is then multiplied by the cost to treat the pollutant.

(5) Other surcharge fees. If it is determined by the city that the discharge of other loading parameters or wastewater substances are creating excessive operation and maintenance costs within the wastewater system,

whether collection or treatment, then the monetary effect of such a parameter or parameters shall be borne by the dischargers of such parameters in proportion to the amount of discharge. (1985 Code, § 19-99, as replaced by Ord. #4407-11, Aug. 2011)

18-315. Private domestic wastewater disposal. (1) Availability.

(a) Where a public sanitary sewer is not available under the provisions of § 18-302(7)(d), the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this section and all other applicable local, state, and federal regulations.

(b) When a public sewer becomes available, the building sewer shall be connected to the POTW within sixty (60) days of official notice to do so.

(2) Requirements for private domestic wastewater disposal. (a) A private domestic wastewater disposal system shall not be constructed within the city limits unless and until a certificate is obtained from the director stating that the POTW is not accessible to the property and no such sewer is proposed for construction in the immediate future.

(b) The type, capacity, location, and layout of a private sewage disposal system shall comply with all recommendations of the Department of Environment and Conservation for the State of Tennessee. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

(c) Before commencement of construction of a private sewage disposal system, the owner shall first obtain written permission from the director. The owner shall supply any plans, specifications, and other information deemed necessary by the director.

(d) A private sewage disposal system shall not be placed in operation until the installation is complete to the satisfaction of the director. They shall be allowed to inspect the work at any stage of construction and, in any event, the owner shall notify the director when the work is ready for final inspection, and before any underground portions are covered. The inspection will be made within a reasonable period of time after the receipt of notice by the director.

(e) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manor at all times, at no expense to the city. If the system is not maintained to the satisfaction of the director, the city reserves the right to remedy the situation by discontinuing water or other services.

(f) No statement contained in this article shall be constructed to interfere with any additional requirements that maybe imposed by the local county health department, State of Tennessee, or federal

government. (1985 Code, § 19-100, as replaced by Ord. #4407-11, Aug. 2011)

18-316. Severability and effective date. Severability. If any provision of this chapter is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect. (1985 Code, § 19-101, as replaced by Ord. #4407-11, Aug. 2011)

18-317. [Deleted.] (1985 Code, § 19-102, as deleted by Ord. #4407-11, Aug. 2011)

18-318. [Deleted.] (1985 Code, § 19-103, as deleted by Ord. #4407-11, Aug. 2011)

18-319. [Deleted.] (1985 Code, § 19-104, as deleted by Ord. #4407-11, Aug. 2011)

18-320. [Deleted.] (1985 Code, § 19-105, as deleted by Ord. #4407-11, Aug. 2011)

18-321. [Deleted.] (1985 Code, § 19-106, as deleted by Ord. #4407-11, Aug. 2011)

18-322. [Deleted.] (1985 Code, § 19-107, as deleted by Ord. #4407-11, Aug. 2011)

18-323. [Deleted.] (1985 Code, § 19-108, as deleted by Ord. #4407-11, Aug. 2011)

18-324. [Deleted.] (1985 Code, § 19-109, as deleted by Ord. #4407-11, Aug. 2011)

18-325. [Deleted.] (1985 Code, § 19-110, as deleted by Ord. #4407-11, Aug. 2011)

18-326. [Deleted.] (1985 Code, § 19-111, as deleted by Ord. #4407-11, Aug. 2011)

18-327. [Deleted.] (1985 Code, § 19-112, as deleted by Ord. #4407-11, Aug. 2011)

18-328. [Deleted.] (1985 Code, § 19-113, as deleted by Ord. #4407-11, Aug. 2011)

18-329. [<u>Deleted</u>.] (1985 Code, § 19-114, as deleted by Ord. #4407-11, Aug. 2011)

CHAPTER 4

WATER[1]

SECTION

18-401. Department designated. All business connected with the control, operation and maintenance of the city water plant or system shall be

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[1]Charter references
City bonds: art. XV.
Departments: art. XVIII.
Garbage removal charges on water bill: § 7.20.2.
Public utilities: § 7.12, et seq.
Waterworks: art. XXI.
State law references
Revenue bonds: Tennessee Code Annotated, § 7-34-101, et seq.
Safe Drinking Water Act: Tennessee Code Annotated, § 68-13-701, et seq.
Sewers and waterworks: Tennessee Code Annotated, Title 7, Ch. 35.

known as the water and sewer department of the city, the entire control and management of same to be vested in the board of commissioners, as set forth in this chapter. (1985 Code, § 24-1)

18-402. Department--supervision; reports, etc. (1) The city manager shall have general supervision over the operation of the water plant or system, subject to the control of the board of commissioners, through this code and other ordinances and resolutions. He shall see that all rules and regulations are enforced and that all contracts and specifications are fulfilled. He shall have the power and authority to hire all labor and buy all materials necessary to the operation and maintenance of the system and to the making of all ordinary repairs and extensions, subject to the conditions and restrictions of the charter of the city. He shall make trips of inspection, shall note all leaks and waste of water and notify persons to have same repaired at once.

(2) He shall submit to the board of commissioners monthly, a report showing the receipts and disbursements, in detail, and the improvements and extensions made, and such other matters as the board may deem necessary, with his recommendations looking toward the betterment of the plant or system.

(3) He shall also make an annual report to the board, at its first meeting in July of each year, containing a complete statement of all the operations of the plant for the year ending on the thirtieth day of June prior, and of its financial and physical condition on such date, together with an estimate showing what improvements, alterations, additions and extensions he may deem necessary or expedient and the probably cost of same. Such annual report shall be published in one (1) of the newspapers of the city, making the lowest bid for its publication.[1] (1985 Code, § 24-2)

18-403. Fluoridation authorized. The water and sewer department shall make plans for the fluoridation of the water supply of the city; shall submit such plans to the department of public health of the state for approval and, upon approval, shall add such chemicals as fluoride to the water supply in accord with such approval as will adequately provide for the fluoridation of such water supply. (1985 Code, § 24-3)

18-404. Fluoridation cost. The cost of fluoridation as provided by § 18-403 shall be borne by the revenues of the water and sewer department. (1985 Code, § 24-4)

18-405. Disposition of revenues. The revenue and income derived from the operation of the water plant shall be collected and paid over to the city treasurer, shall be deposited in the banks of the city, as provided for other

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[1]Charter reference

Report of city manager to board of commissioners: § 99.

funds, and shall be kept as a separate fund to be paid out in the manner and under the conditions and restrictions provided by law.[1] (1985 Code, § 24-5)

18-406. Prerequisites to laying service pipes to premises. No person shall have the right to demand that the city shall lay a line of pipe to his premises within the city limits, unless the revenue to be derived therefrom shall equal at least ten (10) percent annually of the cost of same, or unless the applicant shall pay such part of the cost of the proposed pipe line so that the remainder that the city shall pay shall yield a revenue of not less than ten (10) percent per annum. The board of commissioners shall require the applicant to enter into such written obligations as it may deem proper to secure for the city the prompt payment of such revenue. (1985 Code, § 24-6)

18-407. Application generally. All persons residing within the city, and desiring to do so, may take or use the city water within the city limits, upon paying the proper charges therefor, as specified in this chapter, or that may be adopted. The application for a connection to the water mains for the use of water must be signed by the owner of the premises to be supplied or his duly authorized agent, on the proper form provided for that purpose; an application signed by a tenant only will not be considered; provided, that such persons shall comply in all other respects with the rules and regulations prescribed in this chapter or that may hereafter be adopted by the board of commissioners. (1985 Code, § 24-7)

18-408. Application for construction or building purposes. (1) All persons desiring to use city water in the construction of work of any kind, or for building purposes, shall make proper application therefor, and shall first deposit with the water and sewer department, a sum of money sufficient to cover the expense or cost of tapping the city main, the cost of extending the pipe required inside the premises and for the water to be used in such work for such purpose based on the estimated amount of brick, stone, concrete and plastering work to be done, and shall obtain a receipt from the water clerk that the sum has been paid. The city manager shall not grant a permit for such water connection to be made in default of said requirement. Property where water is used for building will be held liable for the payment of water rent. If upon completion of the work, the sum so deposited shall be found to be insufficient to cover the cost of the water that was used, the balance due shall be collected from the person making the original application.

(2) Water that is used in the construction of concrete sidewalks shall be paid for when the contractor obtains a permit for the construction of such work. (1985 Code, § 24-8)

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[1]Charter reference

Disposition of water revenues: § 97.

18-409. Application by tenants; deposit required; refund of deposit.

(1) Any person who applies for water service through a meter, at premises owned by another person, shall be required to deposit with the cashier of the water and sewer department a guarantee that his water bill will be promptly paid. Any person who occupies such premises at which a meter is installed will be required to make such deposit at the time of installation of the meter.

(2) In the event the bill of such tenant who is required to make deposit required by this section is not paid within fifteen (15) days from the time it is due, the cashier of the finance department shall deduct the amount thereof from the deposit required by this section, cut off the water at such service and remit to the tenant the balance of his deposit.

(3) Upon the removal of the tenant from the premises so occupied, and the payment of all water bills, the cashier of the finance department shall refund to such tenant the amount of his deposit, less any deductions made. (1985 Code, § 24-9)

18-410. Furnishing water to persons outside city. All water supplied to persons or premises outside of the city limits shall be supplied only through meters, and the rates or charges for such water, when consumed outside the limits, shall be at least twenty-five (25) percent greater than is charged for water consumed within the city.[1] (1985 Code, § 24-10)

18-411. Connections to mains made by city; fees. All connections to water mains shall be made and furnished by the city, located four (4) feet from the property line and the person for whom such connection is made shall file application and pay to the city before the work is started, such fees as are prescribed for such connections. (1985 Code, § 24-11)

18-412. Laying service pipe--by plumbers. All plumbers who pay license and privilege tax to the city recorder shall be entitled to and shall obtain from the board of commissioners a permit giving them permission to lay service pipes upon the premises of private persons, and only plumbers so licensed shall lay such service pipes or connect same to the stopcock in the sidewalk. Such work shall be performed in accordance with the requirements of the city. (1985 Code, § 24-12)

18-413. Laying service pipe--extension to adjoining premises, etc. No plumber or other person shall extend any water pipes or attachments to conduct water into any adjoining premises or into any additional hydrant,

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[1]Charter reference

Extension of water lines beyond corporate limits: § 99.

stable, closet or for any purpose whatsoever; nor make any attachment to any old water pipe or fixture, nor to any pipe where water has been turned off, without written permission from the water and sewer department and in every case the plumber must turn off the water, after having tested his work, and make returns to the water office within twenty-four (24) hours. The penalty for a violation of this section shall be as provided in § 1-104 of this code, and in addition thereto, the plumber shall forfeit his license in the discretion of the city manager or the court trying the case. (1985 Code, § 24-13)

18-414. Right of entry. (1) The city manager or an inspector appointed by him shall have the right at all reasonable hours to enter any premises to inspect any pipe, fixture or meter, and shall he be refused admittance the person refusing shall be guilty of a misdemeanor and shall, upon conviction, pay a fine of not less than three dollars ($3.00) nor more than fifty dollars ($50.00) for each such offense; the supply of water shall be cut off until such examination is made, the required information obtained or repairs or alterations made.

(2) Inspectors and meter readers must be courteous and reasonable in all demands made and must take due pains to inform and explain to consumers the use of cutoffs, fixtures and meters and the nature of the service the city experts to render, so as to give customers, as far as possible, satisfactory service. (1985 Code, § 24-14)

18-415. Turning water on or off. (1) Water shall not be turned on or off, by the stopcock in the sidewalk, to any premises for any purpose, except by written authority from the water office.

(2) A stop and waste cock or cut-off valve must be placed by the property owner, just inside the property line, to be under the control of the tenant or owner, to be used by him in case of accident within the premises. This is not intended to take the place of the stop and waste cock to be located within the building as provided for in § 18-412.

(3) No person shall, by a false key or otherwise, after the water has been cut off from any premises, cause such premises to be supplied with city water.

(4) No person shall permit others to use water from his premises, and the supply of water may be cut off from such premises, until all proper charges for water so consumed shall have been paid. The owner or tenant of such premises, and the persons guilty of using water from same, without previously paying for same, shall be guilty of a misdemeanor.

(5) Persons moving from one (1) house to another, in order to get credit for vacancy, must notify the water office of such removal, so that the water may be shut off from the vacated premises. (1985 Code, § 24-15)

18-416. Maintenance of service pipes, fixtures. (1) All water consumers must keep their own pipes, and fixtures connected therewith, in good repair at their own expense and protected from frost, with stop and waste cock so arranged as to draw off all water from pipes when shut off.

(2) If the service pipe, stopcock or any fixture, in or upon the premises of any person, shall become leaky, it shall be the duty of such person to have same repaired, without delay, and upon failure to do so, within forty-eight (48) hours after notice has been served, the supply of water shall be shut off and not let on again until all necessary repairs are made, in a manner satisfactory to the city. (1985 Code, § 24-16)

18-417. Meters. Water meters shall be supplied and installed by the city in such location and in such manner as shall be determined by the city. There shall be at least one (1) meter to each consumer, installed under such conditions as the city may impose. (1985 Code, § 24-17)

18-418. Liability of city for interruption of services, etc. The city will not be liable for any damage that may result to consumers from the shutting off of a water main or service pipe for any purpose or from any cause whatsoever, even in cases where no notice is given and no deduction from water bills will be made in consequence thereof. (1985 Code, § 24-18)

18-419. Throwing sticks, etc.; injuring, defacing valves, pipes, etc. No person shall throw into any reservoir or basin, sticks, planks or anything calculated to pollute the water or clog up the pipes and intakes, or in any way injure, deface, impair or destroy any gate, valve, pipe or fixture of any kind, or any part of any engine house, reservoir, pump, hydrant, fountain, water trough or any property appertaining to the waterworks system or plant, nor shall any person, except a member of the fire department or employee of the city authorized so to do, open or in any way disturb any hydrant, fireplug, gate or valve or remove or lift the cover of same.[1] (1985 Code, § 24-19)

18-420. Monthly billings generally. Each water meter shall be read monthly and water bills rendered as promptly as may be following respective readings. A system of billing shall be established by the finance department commonly known as "cycle billing." All water accounts shall be due and payable ten (10) days after billing. All accounts unpaid by the due date shall be assessed a penalty of ten (10) percent of the gross amount of the bill. If the bill has not been properly paid within ten (10) days after the billing date, the same shall

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[1]State law reference

Injury to or pollution of water storage structures: Tennessee Code Annotated, § 39-6-1603.

become delinquent and service shall be discontinued as provided in § 18-216. Such service shall not be continued again until all delinquent charges and all penalties shall have been paid. An additional charge of five dollars ($5.00) shall be made for reinstating service when such delinquent bills are paid. (1985 Code, § 24-20)

18-421. Meter rates. The monthly charges made by the water department of the city to consumers of water, supplied through a meter, shall be at the following rates to be in effect with all bill calculations beginning August 1 of FY 2018-2019 and July 1 for FY 2019-2020 for all subsequent fiscal years:

Inside City FY 2018-2019		**Outside City FY 2018-2019**	
	Base Charge Per Bill	$4.86	$9.43
Rate 1	0-20,000 gal	$3.79/K gallons	$7.35/K gallons
Rate 2	20,001-190,000 gal	$3.03/K gallons	$5.88/K gallons
Rate 3	190,001-490,000 gal	$2.73/K gallons	$5.30/K gallons
Rate 4	Over 490,000 gal	$2.46/K gallons	$4.77/K gallons
Inside City FY 2019-2020		**Outside City FY 2019-2020**	
	Base Charge Per Bill	$5.10	$9.64
Rate 1	0-20,000 gal	$3.98/K gallons	$7.52/K gallon
Rate 2	20,001-190,000 gal	$3.18/K gallons	$6.01/K gallon
Rate 3	190,001-490,000 gal	$3.87/K gallons	$5.42/K gallon
Rate 4	Over 490,000 gal	$2.59/K gallons	$4.90/K gallon
Inside City 2020-2021		**Outside City 2020-2021**	
	Base Charge Per Bill	$5.35	$9.84
Rate 1	0-20,000 gal	$4.18/K gallons	$7.69/K gallon
Rate 2	20,001-190,000 gal	$3.34/K gallons	$6.15/K gallon
Rate 3	190,001-490,000 gal	$3.01/K gallons	$5.54/K gallon
Rate 4	Over 490,000 gal	$2.72/K gallons	$5.01/K gallon
Inside City 2021-2022		**Outside City 2021-2022**	
	Base Charge Per Bill	$5.62	$10.06
Rate 1	0-20,000 gal	$4.39/K gallons	$7.86/K gallon
Rate 2	20,001-190,000 gal	$3.51/K gallons	$6.28/K gallon

Rate 3	190,001-490,000 gal	$3.16/K gallons	$5.66/K gallon
Rate 4	Over 490,000 gal	$2.85/K gallons	$5.10/K gallon

(1985 Code, § 24-21, as amended by Ord. #3896, June 2002, Ord. #4050-04, Oct. 2004, and Ord. #4315-08, June 2008, replaced by Ord. #4452-12, June 2012, and amended by Ord. #4463-12, Sept. 2012, and Ord. #4662-18, July 2018 ***Ch11-4-4-19***)

18-422. Cutoffs. Every premises to be supplied with city water must be connected to the street main and have its separate cutoff. All cutoffs are under the absolute control of the water and sewer department. (1985 Code, § 24-22)

18-423. Connection fees and service charges. Connection fees and service charges for water connections inside and outside the city shall be as follows: and the water department shall make no water connections without having first collected the fees as fixed in this section, in cash:

(1) Fees for tapping (connection) and meter settings to be effective July 1, 2012.

		Inside Corporate Limits	Outside Corporate Limits
5/8"	Meter and Connection Charge	$750	$1,250
1"	Meter and Connection Charge	$900	$1,500
1" Fire Service	Meter and Connection Charge	$950	$1,635
1 1/2"	Meter and Connection Charge	$1,180	$1,965
2"	Meter and Connection Charge	$1,360	$2,265
2" Fire Service	Meter and Connection Charge	$1,555	$2,590
2"	Compound Meter and Connection Charge	$2,395	$3,990
3"	Meter and Connection Charge	$3,740	$6,235
4"	Meter and Connection Charge	$6,000	$10,000
6"	Meter and Connection Charge	$9,550	$15,920
8"	Meter and Connection Charge	$13,150	$21,920

All connections larger than eight inches (8") to be figured at cost including labor, materials, and overhead.

The water department of the city reserves the right to change meter size based on consumption patterns without reimbursement of fees. Connection size requested is not directly related to meter size. Requested meter and connection size is subject to review and verification by the water department of the city. Incorrectly sized meter and connections may be refused at the discretion of the

Water department director or designee.

(2) Temporary meter installations.

All charges are annual fees per meter based on a calendar year.

	Inside Corporate Limits	**Outside Corporate Limits**
5/8" Meter Charge	$150	$260
3" Meter Charge	$325	$500

(3) Private fire protection systems (sprinkler or hydrants) and cost of metering if required:

	Inside Corporate Limits	**Outside Corporate Limits**
Fire Hydrant	$2,100	$3,500
3" fire line	$2,230 No monthly fee	$3.715 $50.00 monthly fee
4" fire line	$2,545 No monthly fee	$4,245 $50.00 monthly fee
6" fire line	$2,855 No monthly fee	$4,760 $50.00 monthly fee
8" fire line	$3,325 No monthly fee	$5,545 $60.00 monthly fee
10" fire line	$3,640 No monthly fee	$6,070 $60.00 monthly fee
12" fire line	$4,420 No monthly fee	$7,370 $200.00 monthly fee

(4) Service charges. A service charge of twenty-five dollars ($25.00) will be made for each water tap connection of new service (twelve dollars and fifty cents ($12.50) for automatic landlord turn-on agreement or fifty dollars ($50.00) for same day service); transfer of service; account name change; reconnect ion of service following non-payment of bill to include returned checks and meter checks (no charge for first two (2) during last twelve (12) months). A service charge of twenty-five dollars ($25.00) will be added to an account turned

over to a collection agency. A seventy-five dollar ($75.00) service fee will be charged for tampering with water meters, locks, or attempting illegal hook-ups.

(5) Discontinuance of service upon failure to pay bills, etc. Payments of such bills as presented under §§ 18-421 and 18-423 shall be enforced by discontinuing either the water service, the sewer service, or both except to the extent that the city cannot do so without impairment of the contract rights vested in the holders of the outstanding bonds payable from the revenues of the water and sewer systems of the city. (Ord. #3896, June 2002, as amended by Ord. #4050-04, Oct. 2004, and Ord. #4315-08, June 2008, and replaced by Ord. #4452-12, June 2012, and Ord. #4662-18, July 2018 ***Ch11_4-4-19***)

CHAPTER 5

CONNECTIONS WITH PUBLIC WATER SUPPLY

SECTION

18-501. Definitions. The following definitions and terms shall apply in the interpretation and enforcement of this chapter:

(1) "Auxiliary intake." Any piping, connection or other device whereby water may be secured from a source other than that normally used.

(2) "Bypass." Any system of piping or other arrangement, whereby the water may be diverted around any part or portion of a water purification plant.

(3) "Cross connection." Any physical arrangement whereby a public water supply is connected, directly or indirectly, with any other water supply system, sewer, drain, conduit, pool, storage reservoir, plumbing fixture or other device which contains, or may contain, contaminated water, sewage or other waste or liquid of unknown or unsafe quality which may be capable of imparting contamination to the public water supply as a result of backflow. Bypass arrangements, jumper connections, removable sections or swivel or change-over devices through which, or because of which, backflow could occur are considered to be cross connections.

(4) "Interconnection." Any system of piping or other arrangement whereby the public water supply is connected directly with a sewer, drain, conduit, pool, storage reservoir or other device which does or may contain sewage or other waste or liquid which would be capable of imparting contamination to the public water supply.

(5) "Person." Any and all persons, natural or artificial, including any individual, firm or association and any municipal or private corporation organized or existing under the laws of this or any other state or country.

(6) "Public water supply." The water works system furnishing water to Johnson City for general use and which supply is recognized as the public

water supply by the Tennessee Department of Health and Environment.[1] (1985 Code, § 24-40)

18-502. Penalties. Any person who neglects or refuses to comply with any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction therefor, shall be fined not less than ten dollars ($10.00) nor more than fifty dollars ($50.00), and each day of continued violation after conviction shall constitute a separate offense. Where cross-connections, interconnections, auxiliary intakes or bypasses are found that constitute an extreme hazard of immediate concern of contaminating the public water system, the director of water and sewer services shall require that immediate corrective action be taken to eliminate the threat to the public water system. Immediate steps shall be taken to disconnect the public water supply from the on-site piping system unless the imminent hazard(s) is corrected immediately. If necessary, water service shall be discontinued (following legal notification) for failure to maintain backflow prevention devices in proper working order. Likewise the removal, bypassing or altering of the protective device(s) or the installation thereof so as to render the device(s) ineffective shall constitute grounds for discontinuance of water service. Water service to such premises shall not be restored until the customer has corrected or eliminated such conditions or defects to the satisfaction of the director of water and sewer services. (1985 Code, § 24-41)

18-503. City to comply with state regulations. The city public water supply is to comply with Tennessee Code Annotated, §§ 68-13-703 and 68-13-711(6), as well as the rules and regulations for public water supplies, legally adopted in accordance with this code, which pertain to cross-connection, auxiliary intakes, bypasses and interconnections, and establish an effective, ongoing program to control these undesirable water uses. (1985 Code, § 24-42)

18-504. Cross-connections, generally. It shall be unlawful for any person to cause a cross-connection, auxiliary intake, bypass or interconnection to be made, or allow one to exist, for any purpose whatsoever unless the construction and operation of same has been approved by the Tennessee Department of Health and Environment, and the operation of such cross-connection, auxiliary intake, bypass or interconnection is at all times under the direct supervision of the city director of water and sewer services. (1985 Code, § 24-43)

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[1]State law reference

Definitions for Tennessee Safe Drinking Water Act of 1983: Tennessee Code Annotated, § 68-13-703.

18-505. Statement concerning cross-connections, etc. Any person whose premises are supplied with water from the public water supply, and who also has on the same premises a separate source of water supply or stores water in an uncovered or unsanitary storage reservoir from which the water stored therein is circulated through a piping system, shall file with the director of water and sewer services a statement of the nonexistence of unapproved or unauthorized cross-connections, auxiliary intakes, bypasses or interconnections. Such statement shall also contain an agreement that no cross-connection, auxiliary intake, bypass or interconnection will be permitted upon the premises. (1985 Code, § 24-44)

18-506. Inspection for cross-connections. The water and sewer department shall cause inspections to be made of all properties served by the public water supply where cross-connections with the public water supply are deemed possible. The frequency of inspections and reinspections based on potential health hazards involved shall be as established by the director of water and sewer services of the city and as approved by the Tennessee Department of Health and Environment. (1985 Code, § 24-45)

18-507. Right of entry. The director of water and sewer services of the city or his authorized representative shall have the right to enter, at any reasonable time, any property served by a connection to the city water supply for the purpose of inspecting the piping system or systems thereof for cross-connections, auxiliary intakes, bypasses or interconnections. On request, the owner, lessee or occupant of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross-connections. (1985 Code, § 24-46)

18-508. Compliance. Any person who now has cross-connections, auxiliary intakes, bypasses or interconnections in violation of the provisions of this chapter shall immediately, upon notice, comply with the provisions of this chapter within the time designated to complete the work by the director of water and sewer services of the city. (1985 Code, § 24-47)

18-509. Backflow device, installation. (1) Where the nature of use of the water supplied a premises by the water and sewer department is such that it is deemed:

(a) Impractical to provide an effective air-gap separation;

(b) That the owner and/or occupant of the premises cannot or is not willing to demonstrate to the official in charge of the system, or his designated representative, that the water use and protective features of

the plumbing are such as to propose no threat to the safety or potability of the water supply;

(c) That the nature and mode of operation within any premises are such that frequent alterations are made to the plumbing; or

(d) That there is a likelihood that protective measures may be subverted, altered or disconnected;

the director of water and sewer services of the city, or his designated representative, shall require the use of an unapproved protective device on the service line serving the premises to assure that any contamination that may originate in the customer's premises is contained therein. The protective device shall be a reduced-pressure-zone-type backflow preventer approved by the Tennessee Department of Health and Environment as to manufacture, model and size. The method of installation of backflow protective devices shall be approved by said director prior to installation and shall comply with the criteria set forth by the Tennessee Department of Health and Environment. The installation shall be at the expense of the owner or occupant of the premises.

(2) The water and sewer department shall have the right to inspect and test the device or devices on an annual basis or whenever deemed necessary by the director or his designated representative. Water service shall not be disrupted to test the device without the knowledge of the occupant of the premises.

(3) Where the use of water is critical to the continuance of normal operations or protection of life, property or equipment, duplicate units shall be provided to avoid the necessity of discontinuing water service to test or repair the protective device or devices. Where only one (1) unit is installed and the continuance of service is critical, the director shall notify, in writing, the occupant of the premises of plans to discontinue water service and arrange for a mutually acceptable time to test and/or repair the device. The water system shall require the occupant of the premises to make all repairs, the costs of which shall be borne by the owner or occupant of the premises. These repairs shall be made by qualified personnel, acceptable to the director of water and sewer services of the city. (1985 Code, § 24-48)

18-510. <u>Notice of unsafe water</u>. The potable water supply made available on the properties served by the public water supply shall be protected from possible contamination as specified in this chapter. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as: "Water unsafe for drinking." The minimum acceptable sign shall have black letters, one (1) inch high, located on a red background. (1985 Code, § 24-49)

CHAPTER 6

ADJUSTMENTS TO BILLS

SECTION

18-601. City manager authorized to make adjustments to water and sewer bills. The city manager or his designee is hereby authorized, acting in his or her sound discretion, to make or cause to be made adjustments to any water and sewer service bill which may be owed to the aforesaid city or its regional utility system, with said adjustments to be made in accordance with a policy which shall be formulated in writing prior to any said adjustment, and which policy shall be adopted by the board of commissioners by resolution. (Ord. #3454, Jan. 1997)

CHAPTER 7

ILLICIT DISCHARGE ORDINANCE

SECTION

18-701. Purpose. It is the purpose of this ordinance to:

(1) Protect, maintain, and enhance the environment of the City of Johnson City and the public health, safety and general welfare of the citizens of the city, by controlling discharges of pollutants to the city's storm water system and to maintain and improve the quality of the receiving waters into which the storm water outfalls flow, including, without limitation, lakes, rivers, streams, ponds, wetlands, and groundwater of the city.

(2) Maintain and improve the quality of the receiving waters into which storm water runoff flows, including without limitation, lakes, rivers, streams, ponds, and wetlands.

(3) Enable the City of Johnson City to comply with the National Pollution Discharge Elimination System permit (NPDES) and applicable regulations, 40 CFR 122.26 for storm water discharges. (Ord. #4063-04, Dec. 2004)

18-702. Definitions. For the purpose of this ordinance, 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.

(1) "Best Management Practices (BMP)." Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage, or leaks, sludge or waste disposal, or drainage from raw material storage.

(2) "City." The City of Johnson City, TN.

(3) "Contaminant." Any physical, chemical, biological, or radiological substance or matter in water.

(4) "Director." The director of public works of the city or his/her designee, who is responsible for the implementation of the provisions of this ordinance.

(5) "Discharge." To 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 non-storm water solid or liquid matter into the municipal separate storm sewer system.

(6) "Illicit connections." Illegal and/or unauthorized connections to the municipal separate storm water system whether or not such connections result in discharges into that system.

(7) "Municipal separate storm sewer system (MS4)." The conveyances owned or operated by the municipality for the collection and transportation of storm water, including but not limited to, the roads and streets and their drainage systems, catch basins, curbs, gutters, ditches, man-made channels, and storm drains.

(8) "National Pollutant Discharge Elimination System (NPDES) permit." A permit issued pursuant to 33 USC 1342.

(9) "Pollutant." Sewage, industrial wastes, other wastes or materials (liquids or solids).

(10) "Storm water runoff (also called storm water)." That portion of the precipitation on a drainage area that is discharged from the area into the municipal separate storm sewer system.

(11) "Surface water." 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.

(12) "TDEC." The Tennessee Department of Environment and Conservation.

(13) "Waters or Waters of the State." 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. (Ord. #4063-04, Dec. 2004)

18-703. Illicit discharges. (1) Applicability. This section shall apply to any discharge entering the municipal separate storm sewer system that is not composed entirely of stormwater.

(2) Prohibition of illicit discharges. (a) No person shall introduce or cause to be introduced into the municipal separate storm sewer system any discharge that is not composed entirely of storm water. The commencement, conduct, or continuance of any non-storm water discharge to the municipal separate storm sewer system is prohibited.

(i) Exceptions. Uncontaminated discharges from the following sources are permitted:

(A) Landscape irrigation or lawn watering with potable water or water from a natural surface water source;

(B) Diverted stream flows permitted by the State of Tennessee;

(C) Rising ground water;

(D) Groundwater infiltration (as defined at 40 CFR 35.2005(20)) to separate storm sewers;

(E) Pumped ground water;

(F) Foundation or footing drains;

(G) Water discharged from crawl space pumps;

(H) Air conditioning condensate;

(I) Springs;

(J) Individual, residential washing of vehicles;

(K) Flows from natural riparian habitat or wetlands;

(L) Swimming pools (if dechlorinated--typically less than one part per million chlorine);

(M) Street wash waters resulting from normal street cleaning and de-icing operations;

(N) Discharges resulting from emergency fire fighting activities;

(O) Discharges pursuant to a valid and effective NPDES permit issued by the State of Tennessee;

(P) Discharges necessary to protect public health and safety, as specified in writing by the city; and

(Q) Dye testing permitted by the city; and

(R) Emergency public utility repair activities for breaks in water and sewer lines, discharges from water line flushing and blow-offs.

(3) Prohibition of illicit connections. (a) The construction, use, maintenance, continued existence of illicit connections to the separate municipal storm sewer system is prohibited.

(b) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under laws or practices applicable or prevailing at the time of connection. (Ord. #4063-04, Dec. 2004)

18-704. Elimination of discharges or connections. (1) Any person responsible for a property or premises, including but not limited to an owner, operator, or occupant thereof, which is, or may be, the source of any illicit discharge, may be required to implement, at that person's expense, the best management practices necessary to prevent the further discharge of pollutants to the municipal separate storm sewer system.

(2) Any person responsible for a property or premises, including but not limited to an owner, operator, or occupant thereof, where an illicit connection is located may be required, at that person's expense, to eliminate the connection to the municipal separate storm sewer system.

(3) Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed in compliance with the provisions of this section. (Ord. #4063-04, Dec. 2004)

18-705. Notification of spills. (1) Notwithstanding any other requirement of law, as soon as any person who is responsible for a facility or operation (including the owner, occupant, or operator thereof), or is 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 storm water and/or the municipal separate storm water system, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release.

(2) In the event of a release of hazardous materials, the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. The person shall notify the director in person or by telephone or facsimile no later than the next business day.

(3) In the event of a release of non-hazardous materials, the person shall notify the director in person or by telephone or facsimile no later than the next business day.

(4) Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the director within three (3) business days of the telephone notice.

(5) If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner, occupant, 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 five (5) years. (Ord. #4063-04, Dec. 2004)

18-706. Enforcement. (1) Authority. (a) The director or his/her designee(s) shall have the authority to issue notices of violation and citations.

(b) The director may require reports or records from the permittee or person responsible for eliminating the illicit discharge or illicit connection to insure compliance.

(2) Inspections by the city. (a) The director or his/her designee shall have the right to enter onto private properties for the purposes of investigating a suspected violation of this ordinance.

(b) The owner/operator of any facility, operation, or residence where an illicit discharge or illicit connection is known or suspected shall allow the director or his/her authorized representative to have access to and copy at reasonable times, any applicable state or federal permits related to the suspected or known discharge or connection, or any reports or records kept as a condition of this ordinance.

(c) Failure on the part of an owner or operator to allow such inspections by the director or his/her designee shall be cause for the issuance of a stop work order, withholding of a certificate of occupancy, and/or civil penalties.

(3) Enforcement, penalties and liability. (a) Any person in violation of this ordinance shall be subject to a civil penalty, a stop work order, withholding of a certificate of occupancy, and civil damages.

(b) In order to gain compliance, the director may notify other city departments to deny service to the property until the site, facility, activity and/or residence has been brought into compliance with this ordinance.

(c) Any person who violates any provision of this ordinance may also be liable to the city in a civil action for damages.

(d) The remedies provided for in this ordinance are cumulative and not exclusive, and shall be in addition to any other remedies provided by law.

(e) Neither the approval of a discharge under the provisions of this ordinance nor compliance with the conditions of such approval shall relieve any person of responsibility for damage to other persons or property or impose any liability upon the city for damage to other persons or property.

(f) The City of Johnson City, pursuant to Tennessee Code Annotated, § 68-221-1106, hereby declares that any person who violates this ordinance is subject to a civil penalty of not less than fifty dollars ($50.00) or more than five thousand dollars ($5000.00) per day for each day of violations. Each day of violation constitutes a separate violation.

(g) In assessing a civil penalty, the following factors may be considered:

(i) The harm done to the public health or the environment;

(ii) Whether or not the civil penalty imposed will be a substantial economic deterrent to the illegal activity;

(iii) The economic benefit gained by the violator from the violation;

(iv) The amount of effort put forth by the violator to remedy this violation;

(v) Any unusual or extraordinary enforcement costs incurred by the City of Johnson City;

(vi) Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.

(h) The City of Johnson City may also assess damages proximately caused by the violator to the city which may include any reasonable expenses incurred in investigating and enforcing violations of this ordinance or any actual damages caused by the violation.

(i) Appeal from any assessment of civil penalty or damages or both shall be to the Board of Commissioners of the City of Johnson City. A written petition for review of such damage assessment or civil penalty shall be filed by the aggrieved party in the office of the City Manager of the City of Johnson City within thirty (30) days after the damage assessment or civil penalty is served upon the violator either personally or by certified mail, or return receipt requested. Failure on part of the violator to file a petition for appeal in the office of the City Manager of the City of Johnson City shall be deemed consent to the damage assessment or civil penalty and shall become final.

(j) Whenever any damage assessment or civil penalty has become final because of a violator's failure to appeal the city's damage assessment or civil penalty, the city may apply to the chancery court for a judgment and seek execution of the same. (Ord. #4063-04, Dec. 2004)

CHAPTER 8

EROSION AND SEDIMENT CONTROL ORDINANCE

SECTION

18-801. Purpose. The purposes of this ordinance are to:

(1) Protect, maintain, and enhance the environment of the City of Johnson City and the public health, safety and general welfare of the citizens of the city, by preventing soil erosion and sediment discharges and construction related wastes that occur as a result of residential, commercial, industrial, and other construction related activities from reaching the city's storm water system.

(2) Maintain and improve the quality of the receiving waters into which storm water runoff flows, including without limitation, lakes, rivers, streams, ponds, and wetlands.

(3) Comply with the State of Tennessee National Pollutant Discharge Elimination System (NPDES) general permit for discharges from small municipal separate storm sewer systems. (Ord. #4064-04, Dec. 2004, as replaced by Ord. #4603-16, June 2016)

18-802. Definitions. For the purposes of this ordinance, 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 words "shall" and "must" are mandatory and not discretionary. The word "may" is permissive.

(1) "Best Management Practices (BMP)." Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to the municipal separate storm sewer system. 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.

(2) "City." The City of Johnson City, Tennessee.

(3) "Clearing." In the definition of discharges associated with construction activity, clearing, grading, and excavation do not refer to clearing of vegetation along existing or new roadways, highways, dams or power lines for sight distance or other maintenance and/or safety concerns, or cold planing, milling, and/or removal of concrete and/or bituminous asphalt roadway pavement surfaces. Clearing typically refers to the removal of vegetation and disturbance of soil prior to grading or excavation in anticipation of construction

activities. Clearing may also refer to wide area land disturbance in anticipation of non-construction activities; for instance, cleared forested land in order to convert forest land to pasture for wildlife management purposes.

(4) "Commencement of construction or commencement of land disturbing activities." The initial disturbance of soils associated with clearing, grading or excavating activities or other construction activities.

(5) "Construction." Any placement, assembly, or installation of facilities or equipment (including contractual obligations to purchase such facilities or equipment) at the premises where such equipment will be used, including preparation work at such premises.

(6) "Construction related wastes." Refuse or unused materials that result from construction activities. Construction related wastes can include, but are not limited to, unused building and landscaping materials, chemicals, litter, sanitary waste, and concrete truck washout.

(7) "Construction support activities." Activities such as concrete or asphalt batch plants, equipment staging yards, material storage areas, excavated material disposal areas, or borrow areas provided all of the following are met:

(a) The support activity is primarily related to a construction site that is covered under a grading permit;

(b) The operator of the support activity is the same as the operator of the construction site;

(c) The support activity is not a commercial operation serving multiple unrelated construction projects by different operators;

(d) The support activity does not operate beyond the completion of the construction activity of the last construction project it supports; and

(e) Support activities are identified in the erosion and sediment control plan. The appropriate erosion prevention and sediment controls and measures applicable to the support activity shall be described in a comprehensive erosion and sediment control plan covering the discharges from the support activity areas.

(8) "Development." Any man-made change to improved or unimproved property including, but not limited to, construction of buildings or other structures, clearing, dredging, drilling operations, filling, grading, paving, excavation, or storage of equipment or materials.

(9) "Director." The director of public works of the city or his/her designee, who is responsible for the approval of development and redevelopment plans, grading permits, and implementation of the provisions of this ordinance.

(10) "Erosion." The removal of soil particles by the action of water, wind, ice or other agents, whether naturally occurring or acting in conjunction with or promoted by man-made activities or effects.

(11) "Erosion and sediment control plan." A written plan required by this ordinance and prepared in accordance with the Tennessee Construction General Permit, as amended, that includes, but not limited to, site map(s),

identification of construction/contractor activities that could cause pollutants in the storm water, and a description of measures or practices to control these pollutants.

(12) "Exceptional Tennessee waters." Surface waters of the State of Tennessee that satisfy characteristics of exceptional Tennessee waters as listed chapter 1200-4-3-.06 of the official compilation - Rules and Regulations of the State of Tennessee.

(13) "Filling." Any deposit or stock-piling of dirt, rock, stumps, or other natural or man-made solid waste material.

(14) "Grading." Any excavation, filling (including hydraulic fill), or stockpiling of earth materials or any combination thereof, including the land in its excavated or filled condition.

(15) "Grading permit." A permit issued by the city authorizing the commencement of land disturbing activities.

(16) "Land disturbing activity." Any activity on a property that results in a change in the existing soil cover (both vegetative and non-vegetative) or the existing soil topography. Land disturbing activities include, but are not limited to, development, re-development, demolition, construction, reconstruction, clearing, grading, filling, land transporting, and excavation.

(17) "Municipal Separate Storm Sewer System (MS4)." A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that is:

(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, storm water, 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 tribe 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 state;

(b) Designed or used for collecting or conveying storm water;

(c) Which is not a combined sewer; and

(d) Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR §122.2, as amended from time to time.

(18) "Owner or operator." Any party associated with a construction project that meets either of the following two (2) criteria:

(a) This person or entity has operational or design control over construction plans and specifications, including the ability to make modifications to those plans and specifications. This person or entity is typically the owner or developer of the project or a portion of the project, and is considered the primary permittee; or

(b) This person or entity has day-to-day operational control of those activities at a project which are necessary to ensure compliance with a storm water pollution prevention plan for the site or other permit

conditions. This person or entity is typically a contractor or commercial builder who is hired by the primary permittee, and is considered a secondary permittee.

(19) "Plan." An erosion and sediment control plan, or a small lot erosion and sediment control plan.

(20) "Priority construction activity." Construction activities that discharge directly into or immediately upstream from waters the state recognizes as impaired for siltation or those waters designated as exceptional Tennessee waters. A property is considered to have a direct discharge if storm water runoff from the property does not cross any other property before entering the water of the state.

(21) "Sediment." Solid material, either mineral or organic, that is in suspension, being transported, or has been moved from its site of origin by erosion.

(22) "Small lot erosion and sediment control plan." A plan that is designed to eliminate and/or reduce erosion and off-site sedimentation from a site during construction activities, applicable to development and redevelopment sites that disturb less than one (1) acre and are not part of a larger plan of development.

(23) "Storm water pollution prevention plan." Document describing how an owner or operator intends to provide storm water management during land disturbing or construction activities.

(24) "Subdivision." The division, subdivision, or resubdivision of any lot or parcel of land as defined in the Subdivision Regulations of the Johnson City Regional Planning Commission and by the State of Tennessee.

(25) "TDEC." The Tennessee Department of Environment and Conservation.

(26) "Tennessee construction general permit." A permit issued and amended by TDEC titled "General NPDES Permit for Discharges of Storm Water Associated with Construction Activities." State of Tennessee General Permit No. TNR 100000.

(27) "Transporting." Any moving of earth materials from one (1) place to another, other than such movement incidental to grading, as authorized on an approved plan.

(28) "Waters or waters of the state." 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. (Ord. #4064-04, Dec. 2004, as replaced by Ord. #4603-16, June 2016)

18-803. General requirements. (1) Applicability. (a) Land disturbing, construction or construction support activities that cause off-site

sedimentation or sediment discharges to waters of the state shall be in violation of this ordinance.

(b) No owner or operator of any property within the city shall commence land-disturbing activities unless he/she has obtained all applicable permits from state and federal agencies and an erosion and sediment control plan is submitted to and approved by the director.

(c) For construction resulting in less than one (1) acre of disturbed area, excluding single family residential construction that is part of an approved plan for a larger development or sale where best management practices are continuing to be implemented on site, a small lot erosion and sediment control plan shall be submitted to and approved by the director prior to commencement of any land disturbing activity.

(d) The issuance of a grading permit shall be conditioned upon the approval of the erosion and sediment control plan by the director. The city shall serve as the plan approval agency only, and in no instance are its regulations to be construed as designing erosion and sediment control or other storm water systems.

(e) No building permit shall be issued until the owner or operator has obtained a grading permit and is in compliance with the grading permit, where the same is required by this ordinance.

(f) All land disturbing activities including activities exempted from plans submittals shall employ adequate erosion and sediment control best management practices.

(2) Exemptions from plans submittal. (a) The following activities shall not require submittal and approval of an erosion and sediment control plan, or small lot erosion and sediment control plan:

(i) Minor land disturbing activities such as home gardens and individual home landscaping, repairs or maintenance work;

(ii) Additions or modifications to existing, individual, single family structures;

(iii) Emergency work to protect life, limb or property, and emergency repairs, provided that the land area disturbed shall be shaped and stabilized in accordance with the requirements of this regulation;

(iv) Nursery and agricultural operations conducted as a permitted main or accessory use; and

(v) State and federal projects subject to the submission requirements of TDEC.

(vi) Land disturbances comprising an area smaller than the smallest lot allowed in the Zoning Code of the City of Johnson City, Tennessee.

(b) All other provisions of this ordinance shall apply to the exemptions noted in (2)(a) above. (Ord. #4064-04, Dec. 2004, as replaced by Ord. #4603-16, June 2016)

18-804. Erosion and sediment control design standards.

(1) Adoption of standards. (a) The design, installation, operation and maintenance of construction site runoff control design standards and best management practices intended for erosion prevention and the control of sediment and other construction related wastes and/or pollutants shall be performed in accordance with the requirements of the Tennessee construction general permit effective at the time of erosion and sediment control plan approval. This requirement also applies to erosion and sediment control plan development and its contents, site inspection and documentation and reporting. Where the provisions of this section conflict or overlap with the Tennessee construction general permit, as amended, and the TDEC Erosion and Sediment Control Handbook, as amended, the regulation which is more restrictive or imposes higher standards or requirements shall prevail.

(b) The city adopts as its erosion and sediment control design standards and best management practices manual the latest TDEC Erosion and Sediment Control Handbook, as amended. This manual is incorporated by reference into this ordinance. This manual includes a list of acceptable BMPs, including the specific design performance criteria and operation and maintenance requirements for each BMP.

(c) Requirements for BMP design, installation, operation and maintenance, plan development and contents, site inspection, documentation and reporting presented in the Tennessee construction general permit, as amended, and/or the TDEC Erosion and Sediment Control Handbook, as amended, may be updated and expanded upon, at the discretion of the director, based on improvements in engineering, science, monitoring, and local maintenance experience.

(d) Erosion and sediment control BMPs that are designed, constructed and maintained in accordance with the Tennessee construction general permit, as amended and the BMP criteria presented in the TDEC Erosion and Sediment Control Manual shall be presumed to meet the minimum water quality performance standards required by the city.

(e) Additional requirements for discharges into impaired or exceptional Tennessee waters that are defined in the Tennessee construction general permit, as amended, shall be implemented for all priority construction activities. The director has the discretion to require BMPs that conform to a higher than minimum standard for priority construction activities, for exceptional Tennessee waters, or where deemed necessary.

(2) Other guidelines. (a) No solid materials, including building materials, shall be discharged to waters of the State, except as authorized by a section 404 permit or Tennessee Aquatic Resource Alteration Permit.

(b) Off-site vehicle tracking of sediments is prohibited.

(c) Dust generation shall be minimized.

(d) For installation of any waste disposal systems on site, or sanitary sewer or septic system, the plan shall provide for the necessary sediment controls. Owners/operators must also comply with applicable state and/or local waste disposal, sanitary sewer or septic system regulations for such systems to the extent that these are located within the permitted area.

(e) Erosion and sediment control measures must be in place and functional before commencement of land disturbing activities, and must be constructed and maintained throughout the construction period. Temporary measures may be removed at the beginning of the work day, but must be replaced at the end of the work day or prior to a rain event, whichever is sooner.

(f) Temporary construction riparian buffer zones shall be preserved in accordance with the Tennessee construction general permit, as amended. (Ord. #4064-04, Dec. 2004, as replaced by Ord. #4603-16, June 2016)

18-805. Erosion and sediment control plans. (1) Requirements.

(a) The erosion and sediment control plan shall present in detail the best management practices that will be employed to reduce erosion and control sedimentation.

(b) The plan shall be sealed in accordance with the Tennessee construction general permit, as amended.

(c) Best management practices presented in the plan shall conform to the requirements found in the TDEC Erosion and Sediment Control Handbook, as amended, and shall meet or exceed the requirements of the TDEC construction general permit.

(d) The plan shall include measures to protect legally protected state or federally listed threatened or endangered aquatic fauna and/or critical habitat (if applicable).

(e) The plan submitted shall comply with any additional requirements set forth in the city's subdivision regulations, zoning ordinance, or other city ordinances and regulations.

(f) Construction of the site in accordance with the approved plan must commence within one (1) year from the issue date of the grading permit, or the grading permit will become null and void and the plan must be resubmitted for approval.

(2) Plan contents. Erosion and sediment control plans shall include the components of a storm water pollution prevention plan, as required by the Tennessee construction general permit, as amended and any other information deemed necessary by the director.

(3) Small lot erosion and sediment control plan contents.

(a) Requirements:

(i) Land disturbing activities that affect less than one (1) acre and are not part of a larger common plan of development with

an approved plan shall submit and obtain approval of a small lot erosion and sediment control plan prior to obtaining a building permit.

(ii) The plan shall include the following information:

(A) Address/location of land disturbing activity;

(B) Owner/operator name and contact information;

(C) Building permit application number (if available);

(D) Locations of streams, wetlands, ponds, sinkholes, easements, existing drainage structures with respect to the site;

(E) A description of other construction related waste controls that are expected to be implemented on-site. Such details should include, but are not limited to: the construction/location of vehicle wash pads; litter and waste materials control; sanitary and chemical waste control, and concrete truck washout areas.

(F) Approximate disturbed area limits; and

(G) Location of stabilized construction entrance/egress.

(iii) The small site erosion and sediment control plan will be included with the building permit and must be followed by the building permit holder and the owner or operator.

(iv) The director has the discretion to require a fully engineered erosion and sediment control plan as set forth in subsection (2). (Ord. #4064-04, Dec. 2004, as replaced by Ord. #4603-16, June 2016)

18-806. Compliance. (1) Conformity to approved plan:

(a) The owner or operator is responsible for maintaining compliance with the approved plan and grading permit.

(b) The approved erosion and sediment control plan shall be followed during the entire duration of construction at the site;

(c) The director may require reports or records from the permittee or person responsible for carrying out the plan to ensure compliance.

(d) No land disturbing activity shall be allowed to commence without prior plan approval by the director.

(e) Priority construction activities shall not commence until the owner/operator attends a pre-construction meeting with the director.

(2) Amendments to the approved plan: The permittee shall modify and update the plan in accordance with the requirements of the Tennessee construction general permit, as amended.

(3) Inspection and maintenance. (a) Maintenance, site assessments, and inspections of the best management practices shall be implemented

in the manner specified by the Tennessee construction general permit, as amended and the TDEC Erosion and Sediment Control Handbook, as amended, by qualified personnel who are provided by the owner/operator of the land disturbing activity.

(b) The owner/operator shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the owner/operator to achieve compliance with this ordinance. Proper operation and maintenance requires the operation of backup or auxiliary facilities or similar systems, installed by an owner/operator only when necessary to achieve compliance with the conditions of this ordinance.

(c) Any inadequate control measures or control measures in disrepair shall be replaced or modified, or repaired as necessary, in accordance with the inspection and maintenance timeframes stated in the Tennessee general permit, as amended and the maintenance guidance provided in the TDEC Erosion and Sediment Control Handbook, as amended.

(d) If sediment escapes the permitted property, the permittee shall remove off-site accumulations in accordance with the requirements of the Tennessee construction general permit, as amended.

(e) Records shall be retained in accordance with the Tennessee construction general permit, as amended.

(4) Inspections by the city. (a) The director or his/her designee shall have the right to enter onto private properties for the purposes of conducting unrestricted periodic inspections of all land disturbing activities to verify compliance with the approved plan or to determine whether such a plan is necessary.

(b) The director or his/her designee shall have the right to enter onto private properties for the purposes of investigating a suspected violation of this ordinance.

(c) Failure on the part of a owner or operator to allow such inspections by the director or his/her designee shall be cause for the issuance of a stop work order, withholding of a certificate of occupancy, and/or civil penalties.

(5) Enforcement, penalties, and liability. (a) Any person failing to have an approved erosion and sediment control plan prior to starting a land disturbing activity violates this ordinance.

(b) Any owner or contractor who fails to follow an approved erosion and sediment control plan shall have violated this ordinance and shall be subject to a civil penalty, a stop work order, withholding of a certificate of occupancy, and civil damages.

(c) If sediment escapes the permitted property, off-site accumulations of sediment that have not reached a stream shall be removed at a frequency sufficient to minimize offsite impacts. For example, fugitive sediment that has escaped the construction site and has

collected in the street must be removed so that it is not subsequently washed into storm sewers and streams by the next rain or so that it does not pose a safety hazard to users of public streets. Removal of fugitive sediments shall be done by the owner/operator at the owner/operator's expense. This ordinance does not authorize remediation/restoration of a stream without consultation with TDEC, nor does it authorize access by the owner/operator to other private property.

(d) The owner and/or contractor shall allow periodic inspections by the city of all land disturbing activities. Failure to allow such inspections shall be considered a failure to follow the approved plan, and shall be subject to civil penalties, a stop work order, and withholding of a certificate of occupancy.

(e) In order to gain compliance, the director may notify other departments to deny service to the property until the site has been brought into compliance with this ordinance.

(f) Any person who violates any provision of this ordinance may also be liable to the city in a civil action for damages.

(g) The remedies provided for in this ordinance are cumulative and not exclusive, and shall be in addition to any other remedies provided by law.

(h) Neither the approval of a plan under the provisions of this ordinance nor compliance with the conditions of such plan shall relieve any person of responsibility for damage to other persons or property or impose any liability upon the city for damage to other persons or property.

(i) The City of Johnson City, pursuant to Tennessee Code Annotated, § 68-221-1106, hereby declares that any person who violates this ordinance is subject to a civil penalty of not less than fifty dollars ($50.00) or more than five thousand dollars ($5,000.00) per day for each day of violations. Civil penalties for any person who violates this ordinance involving property used or to be used solely as a single family residence, situated or to be situated on one (1) acre or less, shall be not less than fifty dollars ($50.00) or more than five hundred dollars ($500.00) per day for each day of violation. Each day of violation constitutes a separate violation.

(j) In assessing a civil penalty, the following factors may be considered:

(i) The harm done to the public health or the environment;

(ii) Whether or not the civil penalty imposed will be a substantial economic deterrent to the illegal activity;

(iii) The economic benefit gained by the violator from the violation;

(iv) The amount of effort put forth by the violator to remedy this violation;

(v) Any unusual or extraordinary enforcement costs incurred by the City of Johnson City;

(vi) Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.

(k) The City of Johnson City may also assess damages proximately caused by the violator to the city which may include any reasonable expenses incurred in investigating and enforcing violations of this ordinance or any actual damages caused by the violation.

(l) Appeal from any assessment of civil penalty or damages or both shall be to the Board of Commissioners of the City of Johnson City. A written petition for review of such damage assessment or civil penalty shall be filed by the aggrieved party in the office of the City Manager of the City of Johnson City within thirty (30) days after the damage assessment or civil penalty is served upon the violator either personally or by certified mail, return receipt requested. Failure on part of the violator to file a petition for appeal in the office of the City Manager of the City of Johnson City shall be deemed consent to the damage assessment or civil penalty and shall become final.

(m) Whenever any damage assessment or civil penalty has become final because of a violator's failure to appeal the city's damage assessment or civil penalty, the city may apply to the chancery court for a judgment and seek execution of the same. (Ord. #4064-04, Dec. 2004, as replaced by Ord. #4603-16, June 2016)

CHAPTER 9

STORMWATER USER FEE

SECTION

18-901. Definitions. For the purpose of this chapter, the following definitions shall apply; words used in the singular shall include the plural, and the plural, 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 herein shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

(1) "Billing period" means the period identified from the first day of the month to the last day of the month. All bills rendered during a month are for the period beginning on the first day of the same month and are valid for that entire month unless otherwise identified. When city water service is discontinued during a month, the stormwater user fee due for that account shall be the pro rata portion of the month for which water services were active. When a developed property that does not receive city water service changes ownership during a billing period, the account existing on the first day of the billing period shall be liable for the pro rata portion of the drainage fee for that billing period from the first day of the billing period until the day the property transaction is recorded with the Carter County, Sullivan County, or Washington County register of deeds offices.

(2) "Bonds" means revenue bonds, notes, loans or any other debt obligations issued or incurred to finance the costs of construction.

(3) "Calendar year" means a twelve (12) month period commencing on the first day of January of any year.

(4) "Costs of construction" means reasonable costs incurred in connection with providing capital improvements to the system or any portion thereof, including, but not limited to, the costs of (1) acquisition of all property, real or personal, and all interests in connection therewith including all rights-of-way and easements therefor, (2) physical construction, installation and testing, including the costs of labor, services, materials, supplies and construction services used in connection therewith, (3) architectural, engineering, legal and other professional services, (4) insurance premiums taken out and maintained during construction, to the extent not paid for by a contractor for construction and installation, (5) any taxes or other charges which become due during construction, (6) expenses incurred by the city or on its

behalf with its approval in seeking to enforce any remedy against any contractor or sub-contractor in respect of any default under a contract relating to construction, (7) principal of and interest of any bonds, and (8) miscellaneous expenses incidental thereto.

(5) "Debt service" means, with respect to any particular calendar year and any particular series of bonds, an amount equal to the sum of (i) all interest payable on such bonds during such calendar year, plus (ii) any principal installments of such bonds during such calendar year.

(6) "Developed property" means real property other than undisturbed property and vacant improved property.

(7) "Director" means the director of public works.

(8) "Dwelling unit" means a singular unit or apartment providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

(9) "Exempt property" means public rights of way, public streets, public alleys and public sidewalks.

(10) "Extension and replacement" means costs of extensions, additions and capital improvements to, or the renewal and replacement of capital assets of, or purchasing and installing new equipment for, the system, or land acquisitions for the system and any related costs thereto, or paying extraordinary maintenance and repair, including the costs of construction, or any other expenses which are not costs of operation and maintenance or debt service.

(11) "Impervious area" means the number of square feet of hard surfaced areas which either prevent or retard the entry of water into soil mantle, as it entered under natural conditions as undisturbed property, and/or causes water to run off the surface in greater quantities or at an increased rate of flow from that present under natural conditions as undisturbed property, including, but not limited to, roofs, roof extensions, patios, porches, driveway, sidewalks, pavement and athletic courts.

(12) "Multi-family residential property" means property designed to accommodate more than one residence, including multi-family residential structures, townhouses/condominiums, mobile homes and high rise multi-family structures.

(13) "Multi-family residential structure" means a residential structure designed with two or more dwelling units to accommodate two or more families or groups of individuals living separately and not sharing the same living space.

(14) "Nonresidential developed property" means developed property that is not utilized for dwelling units within the city.

(15) "Operating budget" means the annual operating budget adopted by the city for the succeeding fiscal year.

(16) "Operations and maintenance" means the current expenses, paid or accrued, of operation, maintenance and current repair of the system, as calculated in accordance with sound accounting practice, and includes, without

limiting the generality of the foregoing, insurance premiums, administrative expenses, labor, executive compensation, and cost of materials and supplies used for current operations, and charges for the accumulation of appropriate reserves for current expenses not annually incurred, but which are such as may reasonably be expected to be incurred in accordance with sound accounting practice.

(17) "Revenues" mean all rates, fees, assessments, rentals or other charges or other income received by the stormwater user fee fund, in connection with the management and operation of the system, including amounts received from the investment or deposit of moneys in any fund or account and any amounts contributed by the city, all as calculated in accordance with sound accounting practice.

(18) "Single family unit or SFU" means the average impervious area of a single family detached residential dwelling unit located within the city as periodically determined and established as provided in this article. The initial average impervious area is calculated to be three thousand three hundred fifteen (3,315) square feet.

(19) "SFU rate" means the dollar value periodically determined and assigned to each SFU as a charge for stormwater services, and expressed as a dollar value per SFU per month.

(20) "Stormwater management system" or "system" means the existing stormwater management of the city and all improvements thereto which by this chapter are constituted as the property and responsibility of the city, to be operated as an enterprise fund to, among other things, conserve water, control discharges necessitated by rainfall events, incorporate methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, over-drainage, environmental degradation and water pollution or otherwise affect the quality and quantity of discharge from such system.

(21) "Stormwater user fee" means a fee authorized by ordinance(s) established topay operations and maintenance, extension and replacement and debt service.

(22) "Stormwater user fee fund" means the enterprise fund created by this chapter to operate, maintain and improve the system and for such other purposes as stated in this chapter.

(23) "Undisturbed property" means real property which has not been altered from its natural state by grading, dredging, filling, removal of trees and vegetation or other activities which have disturbed or altered the topography or soils on the property.

(24) "User fee district" means the area or property within the corporate limits of Johnson City.

(25) "Vacant improved property" means vacant property which is, or could reasonably be, served by any subdivision improvements that allow egress. (as added by Ord. #4226-06, Jan. 2007)

18-902. Establishment of enterprise service area. The city finds, determines, and declares it to be conducive to the health, welfare, safety and convenience of the city and its residents that a stormwater service area be established within the city. Consequently, pursuant to Tennessee Code Annotated, §§ 68-221-1101 through 68-221-1113, a stormwater enterprise fund, to be known as the Johnson City Stormwater Enterprise Fund, is established, and it is ordained and declared that the city limits shall be and constitute the stormwater enterprise fund service area, and that the enterprise shall comprise and include elements of the city's stormwater drainage and flood protection systems which provide for the collection, treatment and disposal of stormwater, surface water, and groundwater. It is further found, determined, and declared that the elements of the stormwater enterprise fund are of benefit and provide services to all real properties within the incorporated city limits, including property not directly served by the stormwater drainage system, and that such benefits and services may include but are not limited to the provision of adequate systems of collection, conveyance, detention, treatment and release of stormwater; the reduction of hazard to property and life resulting from stormwater runoff and flooding; improvement in general health and welfare through reduction of undesirable stormwater conditions and flooding; and improvement to the water quality in the stormwater and surface water system and its receiving waters.

It is further determined and declared to be necessary and conducive to the protection of the public health, welfare, safety and convenience of the city and its residents that charges to be levied upon and collected from the owners or occupants of all lots, parcels of real estate, and buildings that discharge stormwater (surface or subsurface waters), directly or indirectly, to the city stormwater drainage system, and that the proceeds of such charges so derived be used for the purposes of operation, maintenance, repair, replacement and debt service for construction of stormwater drainage and flood protection improvements comprising the stormwater enterprise fund. (as added by Ord. #4226-06, Jan. 2007)

18-903. User fee. Subject to the provisions of this chapter, each and every residential developed property and nonresidential developed property, other than exempt property, within the corporate limits of the city, and the owners and non-owner users thereof, have imposed upon them a stormwater user fee. In the event the owner and non-owner users of a particular property are not the same, the liability for each the owner and non-owner user for the user fee attributable to that property shall be joint and several. The stormwater user fee shall be a monthly or a regular interval service charge and shall be determined by the provisions of this chapter and the SFU and SFU rate which shall be established and changed from time to time by the board of commissioners.

(1) Single family detached residential property. The stormwater fee for a single family detached residential property shall be the following percentage of the SFU rate:

Impervious Area of the Property (square feet)	Percentage of SFU Rate
1690 or less	51 percent
1691 to 5574	100 percent
5575 or more	168 percent

(2) Multi-family residential property. The stormwater fee for a non-single family detached residential property shall be seventy-one (71) percent of the SFU rate multiplied by the number of dwelling units on the property:

(3) Non-residential property. The stormwater fee for nonresidential properties shall be the SFU rate multiplied by the numerical factor obtained by dividing the total impervious area of a nonresidential property by the number of square feet associated with 1 SFU, or three thousand three hundred fifteen (3315) square feet. The minimum fee for any developed nonresidential property will be equal to 1 SFU rate. (as added by Ord. #4226-06, Jan. 2007)

18-904. Billing. The stormwater user fee for all metered property shall be billed and collected monthly with the monthly city's services utility bill for properties within the corporate limits of the city utilizing city utilities. For all properties not utilizing other city utilities, the stormwater user fee shall be billed and collected separately. All such bills for stormwater user fees shall be rendered monthly by Johnson City. The stormwater user fee for those properties utilizing city utilities is part of a consolidated statement for utility customers which are generally paid by a single payment. The stormwater user fee for unmetered property shall be billed at regular intervals. All bills for stormwater user fees shall become due and payable in accordance with the rules and regulations of Johnson City pertaining to the collection of the stormwater user fees. (as added by Ord. #4226-06, Jan. 2007)

18-905. User fee determination. There is hereby established the following uniform schedule of rates for the services and use of facilities of the stormwater management system by the owner, tenant, or occupant of the premises using the services and facilities of said system:

(1) Periodically, the board of commissioners, upon recommendation of the director, shall, by resolution, establish reasonable rates for stormwater management systems for each single family unit (SFU): Each single family unit shall be billed at a flat fee established by the board of commissioners for an SFU. A single family unit is hereby defined as the statistical average horizontal impervious area of detached single family residential units in Johnson City.

(2) Parcels which are undeveloped may be assessed a stormwater user fee. The bill shall be determined by dividing the total land area of the property, in square feet, by the area of an equivalent residential unit times a correction factor. The correction factor shall be based on the relative volume of runoff from an undeveloped property and that of a typical single family residence, under typical hydrologic conditions.

(3) For all nonresidential properties, that are enterprise, business establishment, building, or other occupancy not covered by subsection (1) and (2) of this section, the rate shall be computed based on the total impervious area of the property divided by the average impervious area of a single family detached residential property times the rate established for a single family unit. The billing amount shall be updated by the director based on any additions to the impervious areas as approved through the building permit process.

(4) Any owner or occupant of a property aggrieved by the director's calculation of the storm water fee or allocation among users as provided in this section may appeal such determination to the director.

(5) Procedures and policies associated with credits and/or adjustments to the storm water fee are set forth in the document entitled Stormwater Management Utility Adjustment and Credit Manual - City of Johnson City, Tennessee, as may be amended from time to time by the board of commissioners by resolution. (as added by Ord. #4226-06, Jan. 2007)

CHAPTER 10

UTILITY DEPOSIT POLICY

SECTION

18-1001. Policy statement. A security deposit for utility services - water, sewer, solid waste, and stormwater - will be collected to ensure that all bills are paid in full by the due date. The city seeks to protect customers with good payment histories from the consequences of uncollectible accounts by other customers. Deposits may be reduced or waived based on credit rating or payment history with the utility. Security deposits are non-transferable to another person and cannot be used to pay regular bills. (as added by Ord. #4558-14, Nov. 2014)

18-1002. Single family residential customer deposits. New and current residential customers who move within the utilities' service areas will be subject to this policy as of the time its adoption. Also, customers receiving service before the implementation of this policy who are cut off for non-payment, meter tampering, or any other reason will be required to pay the standard deposit and all appropriate fees for each account before service is restored. The standard deposit will be approximately double the average monthly bill of services provided. The reduced deposit will be half the standard deposit (the equivalent of an average monthly bill). Deposits, if required, will be collected for each separate account opened by a customer.

(1) Determining the deposit amount. Deposit amounts are based on charges and rates for the fiscal year in which deposit is made. The full residential solid waste rate will determine the solid waste component of the utility deposit. The average residential stormwater rate will determine the stormwater component of the utility deposit. An average of four thousand eight hundred (4,800) water/sewer gallons billed per month will be the standard for determining the water and sewer component of the utility deposit. Current deposit requirements are published as part of the rates and charges schedule.

(2) Credit rating. The deposit amount (standard, reduced, zero) collected from new customers is determined by the customer's credit rating from a contracted rating agency. The rating scale to determine the standard, reduced, or zero deposit is established by the city. Applicants for service with rating presenting no credit risk will not be required to pay a deposit. Applicants with ratings presenting moderate credit risk will be charged the reduced deposit. Applicants with ratings presenting high credit risk will be charged the

standard deposit. New applicants for service who decline the option of using a credit rating to determine the deposit amount will be charged the standard deposit.

(3) Payment history with the utility. The city reserves the right to evaluate the payment histories of customers to assess risks. The city's current billing software provides a credit rating code for each customer based on payment history:

Credit Rating Codes (The Rating Code)

Code	Description
2	Balance paid before or on due date
3	Penalty applied to current bill if not paid by or on due date
4	Next bill printed with current amount plus previous bill with penalty
5	Penalty applied to current bill. Total bill includes current bill plus penalty and previous bill plus penalty
6	Appeared on cut off list for non-payment of previous two bills including penalties
7	Next bill printed with current amount plus previous two bills with penalties (It is very rare that a customer will get a third bill without having paid the previous two bills, for example, customers who have set up pay plans.)
8	Appeared on cut off list for non-payment of three previous bills (very rare)
9	Bad check returned (entered through returned check option in cash receipts)

Current customers who move within the service area, or seek new or additional utility services, will be subject to this policy. The rating code will determine the deposit amount to be collected from the customer. Current customers will not have their credit checked through the contracted credit rating service.

Customers with credit rating code "2" will not be charged a deposit. Customers with credit rating code "3" or "4" will be charged the reduced deposit. Customers with credit rating code "5" and higher will be charged the standard deposit. Current customers must be established for twelve (12) months for consideration of payment history. Current customers established for less than twelve (12) months will be considered new customers and subject to the provisions set for tin subsection (2) above.

(4) Future payment of deposits. Although deposits may be reduced or waived during the application process due to good credit or good payment history, the city shall require the customer to make a deposit or deposits in such amounts that will bring the deposit(s) to the standard deposit level should the customer's utility account become delinquent and cut off for non-payment. (as added by Ord. #4558-14, Nov. 2014)

18-1003. Multi-unit residential and non-residential. Deposits may be required for multi-unit residential (master metered) and non-residential customers who have a history of being disconnected. Deposit amounts will be determined on an individual basis based on customer history and usage patterns. (as added by Ord. #4558-14, Nov. 2014)

18-1004. Refund of deposits. When service is terminated, unused security deposits will be refunded with interest at the same rate applicable to the city's account in which the security deposit is held. The city may deduct such amount from the deposit(s) to offset any outstanding balance prior to the refund of the deposit. A deposit will not be refunded if a customer has another utility account with a balance owed to the city. (as added by Ord. #4558-14, Nov. 2014)

TITLE 19

ELECTRICITY AND GAS[1]

CHAPTER

CHAPTER 1

GAS

SECTION

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.[2]

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[1]Municipal code reference
Electrical code: title 12.
Gas code: title 12.

[2]See Ord. #2726, July 1988, and Ord. #3511, Aug. 1997, of record in the office of the city recorder.

TITLE 20

MISCELLANEOUS

CHAPTER

CHAPTER 1

HELICOPTERS[1]

SECTION

20-101. Definitions. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) "Helicopter." Any rotorcraft which depends principally for its support and motion in the air upon the lift generated by one (1) or more power-driven rotors rotating on a substantially vertical axis.

(2) "Heliport." An area of land, water or structural surface which is designed, used or intended to be used for landing and take-off of helicopters, and any appurtenant areas, including buildings and other facilities such as refueling, parking, maintenance and repair facilities. The term "heliport" applies to all such facilities whether public or private.

(3) "Helistop." A minimum facility without the logistical support provided at a heliport at which helicopters land and take off, including the touchdown area. Helistops may be at ground level or elevated on a structure. The term "helistop" applies to all such minimum facilities whether public or private. (1985 Code, § 6-16)

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[1]State law reference

Heliports: Tennessee Code Annotated, § 42-8-101, et seq.

20-102. Effect on zoning ordinance. No provisions of this chapter shall be construed to alter or amend any provisions of the city's zoning ordinance, and no use prohibited by the terms of said ordinance shall be deemed permitted by the provisions of this chapter. (1985 Code, § 6-17)

20-103. Landing in unauthorized places. No person, except in an emergency, or persons involved in the conduct of official business for any law enforcement agency or military unit of any branch of the armed forces of the United States of America or the Tennessee National Guard, shall land a helicopter at any place within the city other than at landing facilities duly licensed or approved as required by appropriate statute or regulation by the state and the federal aviation agencies; provided, however, the city manager may approve temporary landing sites for special purposes so long as said landing sites are considered safe by the city and the helicopter operator and that said temporary landing sites are approved in writing. (1985 Code, § 6-18)

20-104. Designation of heliports or helistops. All heliports or helistops shall comply, where applicable, with the Heliport Design Guide Advisory Circular dated August 22, 1977, published by the federal aviation administration, or any authorized amendment or supplement thereto, as well as any rules and regulations promulgated by the state department of transportation with respect to minimum standards for heliports or helistops. If a heliport or helistop shall be located on a building or other structure, it shall further comply with the building code of the city. (1985 Code, § 6-19)

CHAPTER 2

PARKS AND RECREATION--MISCELLANEOUS

SECTION

20-201. Definitions. The following words, terms and phrases, when used in chapters 5-10 of this title shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) "Director" shall mean the director of the parks and recreation department.

(2) "Driver" shall mean every person who drives or is in actual physical control of a vehicle in or on park property, or who is exercising control of a vehicle or steering a vehicle being towed by a motor vehicle.

(3) "Motor vehicle" shall mean every vehicle which is self-propelled by means of an internal combustion engine or by electrical power, including but not limited to, automobiles, buses, emergency vehicles, motorcycles, motorbikes, motorscooters, school buses, trucks, and tractors.

(4) "Nonresident" shall mean any person not residing within the boundaries of the city.

(5) "Parking" shall mean the standing of a vehicle, whether occupied or not, except for the temporary purpose of loading or unloading merchandise or passengers.

(6) "Park" or "park area" shall mean all parks, playgrounds, recreation fields and areas, waterways, water areas, marinas, lakes, streams, canals, lagoons, beaches, and the parking areas, roadways, walkways, paths, and trails which are provided in connection therewith, and other improvements thereto, which are owned by the city, and which are under the control of the city for operation, maintenance, or upkeep.

(7) "Traffic-control devices" shall mean all signs, signals, markings, and devices placed or erected by authority of the city for the purpose of regulating, warning, or guiding traffic. (Ord. #3839, Sept. 2001)

20-202. Purposes. The purposes of chapters 5-10 of this title are to establish rules and regulations governing the operation and use of municipal park and recreation facilities, including established and designated picnic areas, public buildings, and shelters devoted to recreation purposes, athletic fields,

tennis courts, swimming areas, and other similar recreation areas and facilities, and the parking areas provided in connection therewith, which are owned or leased by the city, for the end and purpose that the public may obtain the maximum enjoyment and utilization thereof in accordance with the purposes intended and that the facilities may be conserved and protected for the public good. (Ord. #3839, Sept. 2001)

20-203. Enforcement authority. (1) The police bureau or parks and recreation employees are authorized to enforce the provisions of chapters 5-10 of this title.

(2) It shall be unlawful for any person to do any act forbidden or fail to perform any act required by chapters 5-10 of this title or for any person to fail to comply with any lawful order given by the police bureau.

(3) Continuous violation of chapters 5-10 of this title shall result in permanent expulsion from the City of Johnson City's park system and recreation facilities. (Ord. #3839, Sept. 2001)

20-204. Hours. Except for unusual and unforeseen emergencies, parks shall be open to the public every day of the year during designated hours. The opening and closing hours for each individual park shall be posted therein for public information. All park visitors shall vacate the park premises during posted hours of closing to the public, or as directed by the parks and recreation director. (Ord. #3839, Sept. 2001)

20-205. Closed areas. Any section or part of any park may be declared closed to the public by the director at any time and for any interval or at regular or stated intervals (daily or otherwise) or entirely or merely restricted to certain uses as the director shall find reasonably necessary. (Ord. #3839, Sept. 2001)

20-206. Preservation of buildings and other property. (1) No person in a park building or upon park grounds shall willfully mark, deface, disfigure, injure, tamper with, or displace, or remove any buildings, bridges, tables, benches, fireplaces, railings, paving or paving material, water lines, other public utilities or appurtenances thereof, signs, notices, placards (whether temporary or permanent), monuments, stakes, posts, other boundary markers, or other structures, equipment, facilities, park property or appurtenances whatsoever.

(2) All persons using restrooms and washrooms shall cooperate in keeping them in a neat and sanitary condition.

(3) No person shall damage or remove plants, plant materials, trees or parts thereof, flowers, nuts, or seeds, except that park personnel may be empowered to make such removals. Scientists and students of botany may be given special written specimen-collecting permits at the discretion of the parks and recreation director.

(4) No person or agency shall make any excavations by tool, equipment, blasting, or other means, nor shall any person construct or erect any building or structure of whatever kind, either permanent or temporary, or run or string any public utilities into, upon, across, or over any park or recreation lands, unless authorized by permit or easement.

(5) No fires shall be built in any area of any park, except in such areas as are specifically designed for fire building, nor shall any person dump, throw, or permit to be scattered, by any means, lighted matches, burning tobacco products, or any other flammable material within any park area, or any highway, road, or street abutting thereto.

(6) No person shall climb any tree or walk, stand or sit upon monuments, vases, fountains, railing fences, or upon any other property not designated or customarily used for such purposes. (Ord. #3839, Sept. 2001)

20-207. <u>Protection and preservation of wildlife</u>. (1) No person shall molest, harm, frighten, kill, net, trap, snare, hunt, chase, shoot, throw or propel by any means missiles at any wildlife creature, be it animal, bird, or reptile roaming free within a park or in captivity in a zoo cage with the exception of police bureau personnel acting to protect the general public using a park facility; nor shall any person remove or possess the young of any wild animal or the nest or eggs of any reptile or bird, or collect, remove, possess, give away, sell, offer to sell, buy, offer to buy, or accept as a gift any park wildlife specimen, dead or alive.

(2) No person shall bring any unleashed animal, reptile, or bird (either wild or domestic) onto the grounds of any park. (Ord. #3839, Sept. 2001)

CHAPTER 3

PARKS AND RECREATION--PERMITS

SECTION

20-301. Picnic shelters. Reservations for picnic shelters and the appurtenances thereto shall be obtained in advance for a specific time and duration for each such facility, subject to the conditions and provisions contained in the picnic shelter permit. (Ord. #3839, Sept. 2001)

20-302. Overnight camping. (1) Organized groups may receive permission for an overnight camping permit at a specified site in an area of a park where such designated facilities are available. Permits for overnight camping will be issued in writing by the director upon request. Permits will be issued under such special regulations and instructions as may be prescribed by the director.

(2) Bringing into a park and using for overnight occupancy any house, trailer, camp trailer, recreation vehicle, camp wagon or any other form of moveable structure or special vehicle is prohibited, unless written permission is given by the director. (Ord. #3839, Sept. 2001)

20-303. Special photography. Prior written permission shall be obtained from the director for the making of still or moving pictures involving the use of special settings, structures, or the performance of a cast of persons, whether amateur or professional, or involving the posing of amateur or professional models. Permission shall be granted only when such activities will be in full compliance with all laws and regulations of the United States, the state, the county and the city, and will in no way interfere with the normal use of park facilities by the general public, unless otherwise permitted by the department director. The provisions of this section do not in any way restrict the use of cameras, whether by amateur photographers or professionals, who are not using such settings, structures, apparatus, casts, or models. (Ord. #3839, Sept. 2001)

20-304. Public demonstrations. (1) No band procession, military company, or any company or group with flags, banners, signs (professionally made or handmade) and transparencies shall be allowed upon any park or within any park without written permission of the director. Such permits shall clearly define the nature of the activity, the limit of its scope and time, and shall set forth such other restrictions and requirements as the director may deem necessary.

(2) No entertainment, musical rendition, or exhibition shall be given in any park or recreation area, and no electronic microphones or amplifying devices shall be used in connection therewith, except under the direction and authority of the director, or in the performance of duty by police bureau personnel.

(3) No person shall initiate, sponsor, organize, promote, conduct, or advertise a public assembly to be gathered in a park or recreation area, unless a permit has been obtained from the director. A separate permit shall be required for each such assembly and the period of time for which the permit is applicable shall be clearly stated. (Ord. #3839, Sept. 2001)

20-305. Application. All requests for permits required hereunder shall be made in writing upon an application form, to be furnished by the parks and recreation department, which shall require the following information:

(1) The name and address of the applicant proposing or sponsoring the activity involved;

(2) The type of permit requested and the purposes or activity proposed thereunder;

(3) The date and hours for which the permit is desired;

(4) The specific park area or recreation facility for which the permit is requested;

(5) The proposed number of persons who will attend or participate in the activity involved;

(6) A statement of any special circumstances which are material to the permit requested;

(7) A detailed description of all equipment to be brought into the park;

(8) Such other relevant information as the director may reasonably require in regard to the application. (Ord. #3839, Sept. 2001)

20-306. Standards for issuance. If the park area or recreation facility will be available for use on the date and time requested and is not subject to a prior reservation, the director may issue a permit under this chapter when the park use applied for is in accordance with the purpose for which such park property is designed or intended, and provided that the proposed activity will not unreasonably interfere with or detract from the general public enjoyment of the remaining park area or interfere with or endanger public health, welfare, or safety. (Ord. #3839, Sept. 2001)

20-307. Decision on application; appeals from denial. (1) Within five (5) business days after receipt of an application for permit hereunder, the director shall either approve or deny same and advise the applicant accordingly, either in person or by mail.

(2) If an applicant is denied, the director at the time of notification shall apprise the application in writing of the reasons for such refusal. Any persons aggrieved thereby shall have the right to appeal such adverse decision in writing within seven (7) days of receipt of such refusal to the city manager, who shall consider the application under the standards hereinabove set forth, and without undue delay, sustain, overrule or modify the director's decision. (Ord. #3839, Sept. 2001)

20-308. Conditions of permit. Permits will be issued subject to such special regulations and instructions as may be prescribed by the director. Permittees shall be bound by all park rules, regulations, and all applicable law and ordinances as fully as though the same were inserted in the permits. Permittees shall hold the city harmless from any claims for loss, injury, or damage to any persons or property whatsoever caused by the negligence of permittees in the exercise of such permit. The director shall have the authority to revoke a permit upon finding a violation of any rule, law, or ordinance. (Ord. #3839, Sept. 2001)

CHAPTER 4

PARKS AND RECREATION--REGULATIONS GENERALLY

SECTION

20-401. Alcoholic beverages. See title 8, alcoholic beverages, § 8-101 for the regulation of alcoholic beverages, wine, high alcohol content beer, and beer in parks. (Ord. #3839, Sept. 2001, as replaced by Ord. #4596-15, March 2016)

20-402. Drunkenness. No intoxicated person will be permitted entry to parks and recreation areas, and if discovered therein, that person or persons shall be subject to arrest by law enforcement personnel. (Ord. #3839, Sept. 2001)

20-403. Vending or selling in park areas. No person, other than the parks and recreation department or its licensed concessionaires acting by and under the authority of the city, will offer for sale, rent, or trade any article or thing, or place any stand, cart, or vehicle for the transport, sale or display of any food, drink, article, or merchandise, or engage in any commercial activity for compensation, or solicit any business within the limits of any park or recreation area. (Ord. #3839, Sept. 2001)

20-404. Domestic animals. No person shall bring into, or allow to remain in any park or park area, any unleashed dogs, cats, or other animals belonging to that person or in his/her possession, or custody. Nothing herein contained shall be construed as permitting the running of dogs at large. The owner or custodian of every animal shall be responsible for the removal of excreta deposited by such animal within park areas. By prior written approval by the parks and recreation director, unleashed animals may be permitted in any park or park area. Provided that animal remains under the control of the person bringing that animal into any park or park area for a special event. (Ord. #3839, Sept. 2001)

20-405. Bathing, swimming. (1) No person, regardless of age, sex, or manner of dress, shall swim, scuba dive, wade or bathe in waters or waterways in or adjacent to any park, other than such places as are provided for such activities, and in compliance with the rules of these areas, as to hours of the day and safety limitations for such use.

(2) Parks and recreation personnel, police department officer(s), and other appropriately designated personnel shall have the authority to order persons in and out of the water as conditions permit relative to the welfare, health, and safety of the public. All orders issued by any parks and recreation personnel and police bureau officer(s) shall be obeyed. (Ord. #3839, Sept. 2001)

20-406. Unattended children upon designated recreation beach areas and pools. It shall be unlawful for the parent, legal guardian, or other person having the care and custody of a child twelve (12) years of age or under to permit such child at any time to be in or upon the premises of the designated recreation beach areas or pool, unless the child is accompanied by his/her parent, legal guardian, or other person 16 years of age or over having the care and custody of the child. (Ord. #3839, Sept. 2001)

20-407. Shelters. No person shall erect, or cause to be erected, any tent, shelter, or structure on or in any designated recreation, bathing, or wading area in such a manner that a guy wire, rope, extension, brace or support is connected or fastened from any such structure to any other structure, stake, rock, earth, or other object, unless permitted by the department director. (Ord. #3839, Sept. 2001)

20-408. Boating. (1) No person shall bring into or operate in any park property, waterway, bay, lagoon, lake, canal, river, pond or slough, other than those in place designated for such use or purposes in accordance with Tennessee Code Annotated, § 69-10-209, Rules and Regulations. This references uniform regulations governing the numbering, the safety equipment, and the operation of vessels subject to this chapter so that any such vessel complying therein may be operated with equal freedom, or under similar requirements, upon all the waters of Tennessee. This section is held in strict conformity with city, state, and federal law, any boat, yacht, cruiser, canoe, raft, or other watercraft, except toys too small for human occupancy.

(2) No motor boats shall be operated on park waters, unless equipped in accordance with Tennessee Code Annotated, § 69-10-209, Rules and Regulations. (Ord. #3839, Sept. 2001)

20-409. Hunting, firearms, toy guns. (1) No person shall carry, use, or possess firearms of any description, air rifles or pistols, spear guns, spring guns, bows and arrows, or any other form of weapon whether real or merely

replicas or toys in a park area, with the exception of personnel of the Johnson City Police Bureau acting or performing in the line of duty.

(2) No hunting, trapping, or pursuit of wildlife by any means or methods whatsoever shall be permitted on or in any park area, unless specifically designated from time to time by the city manager.

(3) The following verbiage must be posted at all park entrances: Pursuant to Tennessee Code Annotated, § 39-17-1359, the owner/operator of this property has banned weapons on this property, or within this building or this portion of this building. Failure to comply with this prohibition is punishable as a criminal act under state law and may subject the violator to a fine of not more than five hundred dollars ($500.00). The exception to this posting is law enforcement personnel performing their duties. (Ord. #3839, Sept. 2001)

20-410. Game and sport activity. No person shall play or engage or participate in any game, sport, or recreation activity upon property used, maintained, or occupied by the city at any time, when there is posted on such property in a reasonably conspicuous place and manner, an appropriately worded sign prohibiting any such game, sport, or recreation activity. (Ord. #3839, Sept. 2001)

CHAPTER 5

PARKS AND RECREATION--PICNIC AREAS

SECTION

20-501. Food preparation and cooking. (1) No person shall build, light or cause to be lighted any fire upon the ground or upon any other surface in any area except as specifically designated in an approved grill, stove, fireplace, or other suitable container, nor shall any person tending or starting a fire leave the area without completely extinguishing the fire.

(2) No person shall use a grill or other device in such a manner as to burn, char, mar, or blemish any bench, table, or any other object of park property. (Ord. #3839, Sept. 2001)

20-502. Regulation and control. The director and the parks and recreation department employees will regulate activities in picnic areas when necessary to prevent congestion and to secure the maximum use for the comfort and convenience of all. If the facilities are crowded, persons holding activities in any park picnic area, building or structure shall avoid using same to the exclusion of others for an unreasonable time, as determined in the sole discretion of parks and recreation management. Use of individual fireplaces, grills, tables, and benches shall be on a first come, first served basis. (Ord. #3839, Sept. 2001)

20-503. Financial arrangements for picnics. Financial arrangements for payment for any picnics which are held in a park, on a reserved basis or otherwise, shall be made in advance through the department's administrative office. (Ord. #3839, Sept. 2001)

CHAPTER 6

PARKS AND RECREATION--TRAFFIC

SECTION

20-601. State and local traffic regulations apply. The provisions of the state statutes governing and regulating the operation, maintenance, and control of motor vehicles and the traffic ordinances already contained in the city code are adopted by reference into this chapter and shall apply uniformly to and within the confines of all parks and recreation facility areas, roadways, drives, and parking areas appurtenant thereto. All persons within the confines of park and recreation facility areas shall at all times fully comply with all such motor vehicle statutes and ordinances. (Ord. #3839, Sept. 2001)

20-602. Obedience to traffic signs. All persons shall obey all traffic signs indicating speed, direction, caution, stopping, or parking and all other signs posted for proper control of traffic or for the safety of persons and property. (Ord. #3839, Sept. 2001)

20-603. Enforcement of traffic regulations. All persons shall obey all traffic officers and parks and recreation employees, who are authorized to direct traffic whenever and wherever needed in the parks or in the highways, streets, or roads immediately adjacent thereto. (Ord. #3839, Sept. 2001)

20-604. Use of vehicles. (1) No operator of a vehicle shall tow another vehicle on park roads, except when the towing vehicle is used in transporting a boat into a marina/dock areas or other designated area, or when necessary to remove a disabled vehicle, or in the towing of motorized bikes or special event trailers, or as otherwise permitted by the director, or by the chief of police.

(2) No person shall change any parts of or repair, wash, or grease a vehicle on any park roadway, parkway, driveway, parking lot or other park property, except as necessary to remove a disabled vehicle.

(3) All disabled vehicles not removed from park property within twenty-four (24) hours shall be subject to citation and removal by the city and

impounded until such time as redeemed at the owner's expense. (Ord. #3839, Sept. 2001)

20-605. Speed of vehicles. No person shall operate or drive a vehicle in any park area at a rate of speed in excess of 15 miles per hour, except upon such road as the city manager may designate by posted signs for speedier travel. (Ord. #3839, Sept. 2001)

20-606. Vehicles confined to designated areas. No person shall drive any vehicle on any area except the paved park roads, designated parking areas, or such other areas as may on occasion be specifically designated as travel or parking areas by the director, or in cooperation with the police bureau operations or as directed by the chief of police. (Ord. #3839, Sept. 2001)

20-607. Parking regulations. No person shall park a vehicle in other than an established or designated parking area, and such use shall be in accordance with the posted directions and with the instructions of any attendant who may be present. (Ord. #3839, Sept. 2001)

20-608. Parking during authorized hours. No vehicles shall park or remain in a parking area established in conjunction with a park and recreation facility beyond the hours of operation established for the facility unless otherwise posted. Operators of vehicles having mechanical breakdowns or operational failures shall immediately advise the traffic officers or appropriate parks and recreation employees of such circumstances and shall take further appropriate action necessary to insure that the vehicle will be removed from the parking area within twenty-four (24) hours. No vehicle shall be permitted to remain in the parking areas after the closing hours thereof, unless the express permission of the director is first obtained. Vehicles in violation hereof shall be subject to citation and removal by the city and impounded until such time as redeemed at the owner's expense. (Ord. #3839, Sept. 2001)

CHAPTER 7

PARKS AND RECREATION--RESERVATIONS FOR FACILITIES

SECTION

20-701. Definitions. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) "Civic, educational, or community service" shall mean any group primarily devoted to the advancement of civic, educational or community service purposes.

(2) "Nonresident civic, educational, or community service group" shall mean a group primarily devoted to the advancement of civic, educational, or community service purposes whose current membership as of thirty (30) days prior to the date on which facility is requested to be used is comprised of less than seventy (70) percent of citizens of the city.

(3) "Resident civic, educational or community service group" shall mean a group primarily devoted to the advancement of civic, educational, or community service purposes, whose current membership as of thirty (30) days prior to the date on which the facility is requested to be used is comprised of more than seventy (70) percent of citizens of the city. (Ord. #3839, Sept. 2001)

20-702. Use of community facilities. The director may permit the use of community facilities on a priority basis by civic, educational, or community service groups, provided that such activities will not interfere with the utilization of such facilities by the city for its own programs. The priority for such uses shall be as set forth in this section. In the event of a conflict between priorities, the final determination shall be made by the city manager.

First priority shall be given, on a space-available basis, to the activities of resident(s) and resident civic, educational, or community service groups providing recreation activities that complement the recreation program of the city as determined or permitted by the department director.

Second priority will be given, on a space-available basis, to the activities of nonresident and nonresidents civic, educational, or community service groups, providing recreational activities, that complement the recreation program of the city as determined or permitted by the department director. (Ord. #3839, Sept. 2001)

20-703. Applications. Facilities may be reserved and used upon an application for use on a specific date. Such application shall be filed with the

director and signed by the president or chairperson of the organization. The application shall state the purpose for which use of the park facility is requested, whether admission fees and charges shall be made, and state the name of the organization's current president, which shall show on its face the number of members who reside within the city and the number of residents who do not reside within the city. (Ord. #3839, Sept. 2001)

20-704. Penalty. Any person who shall violate any provision of chapters 5-10 of this title, upon being found guilty, shall be punished according to law, pursuant to the general penalty provisions of the code of the City of Johnson City. (Ord. #3839, Sept. 2001)

ORDINANCE NO. 4062-04

AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE CITY OF JOHNSON CITY TENNESSEE.

WHEREAS some of the ordinances of the City of Johnson City 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 Commissioners of the City of Johnson City, Tennessee, has caused its ordinances of a general, continuing, and permanent application or of a penal nature to be codified and revised and the same are embodied in a code of ordinances known as the "Johnson City Municipal Code," now, therefore:

BE IT ORDAINED BY THE CITY OF JOHNSON CITY AS FOLLOWS:

Section 1. Ordinances codified. The ordinances of the city of a general, continuing, and permanent application or of a penal nature, as codified and revised in the following "titles," namely "titles" 1 to 20, both inclusive, are ordained and adopted as the "Johnson City Municipal Code," hereinafter referred to as the "municipal code."

Section 2. Ordinances repealed. All ordinances of a general, continuing, and permanent application or of a penal nature not contained in the municipal code are hereby repealed from and after the effective date of said code, except as hereinafter provided in Section 3 below.

Section 3. Ordinances saved from repeal. The repeal provided for in Section 2 of this ordinance shall not affect: Any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of the municipal code; any ordinance or resolution promising or requiring the payment of money by or to the city or authorizing the issuance of any bonds or other evidence of said city's indebtedness; any appropriation ordinance or ordinance providing for the levy of taxes or any budget ordinance; any contract or obligation assumed by or in favor of said city; any ordinance establishing a social security system or providing coverage under that system; any administrative ordinances or resolutions not in conflict or inconsistent with the provisions of such code; the portion of any ordinance not in conflict with such code which regulates speed,

direction of travel, passing, stopping, yielding, standing, or parking on any specifically named public street or way; any right or franchise granted by the city; any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments therefor; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; nor shall such repeal affect any ordinance annexing territory to the city.

Section 4. Continuation of existing provisions. Insofar as the provisions of the municipal code are the same as those of ordinances existing and in force on its effective date, said provisions shall be considered to be continuations thereof and not as new enactments.

Section 5. Penalty clause. Unless otherwise specified in a title, chapter or section of the municipal code, including the codes and ordinances adopted by reference, whenever in the municipal code any act is prohibited or is made or declared to be a civil offense, or whenever in the municipal code the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision of the municipal code shall be punished by a civil penalty of not more than fifty dollars ($50.00) and costs for each separate violation; provided, however, that the imposition of a civil penalty under the provisions of this municipal code shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the municipal code or other applicable law. In any place in the municipal code the term "it shall be a misdemeanor" or "it shall be an offense" or "it shall be unlawful" or similar terms appears in the context of a penalty provision of this municipal code, it shall mean "it shall be a civil offense." Anytime the word "fine" or similar term appears in the context of a penalty provision of this municipal code, it shall mean "a civil penalty."[1]

Each day any violation of the municipal code continues shall constitute a separate civil offense.

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[1]State law reference

For authority to allow deferred payment of fines, or payment by installments, see Tennessee Code Annotated, § 40-24-101 et seq.

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 commissioners, by motion or resolution, shall fix, and change from time to time as considered necessary, the prices to be charged for copies of the municipal code and revisions thereto. After adoption of the municipal code, each ordinance affecting the code shall be adopted as amending, adding, or deleting, by numbers, specific chapters or sections of said code. Periodically thereafter all affected pages of the municipal code shall be revised to reflect such amended, added, or deleted material and shall be distributed to city officers and employees having copies of said code and to other persons who have requested and paid for current revisions. Notes shall be inserted at the end of amended or new sections, referring to the numbers of ordinances making the amendments or adding the new provisions, and such references shall be cumulative if a section is amended more than once in order that the current copy of the municipal code will contain references to all ordinances responsible for current provisions. One copy of the municipal code as originally adopted and one copy of each amending ordinance thereafter adopted shall be furnished to the Municipal Technical Advisory Service immediately upon final passage and adoption.

Section 8. Construction of conflicting provisions. Where any provision of the municipal code is in conflict with any other provision in said code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

Section 9. Code available for public use. A copy of the municipal code shall be kept available in the recorder's office for public use and inspection at all reasonable times.

Section 10. Date of effect. This ordinance shall take effect from and after its final passage, the public welfare requiring it, and the municipal code, including all the codes and ordinances therein adopted by reference, shall be effective on and after that date.

Passed 1st reading, 11-18, 2004.

Passed 2nd reading, 12-02, 2004

Passed 3rd reading, 12-16, 2004.

Mayor

City Recorder

Approved as to form:

City Attorney